THE PUNISHMENT OF CRIMES IN VIRGINIA, 1775-1820

BY

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PUNISHMENT OF CRIMES IN VIRGINIA, 1775-1820

by

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PREFACE

Several studies have been made of the criminal laws and punishments in Colonial Virginia. The most thorough of these is Criminal Law in Colonial Virginia by Arthur P. Scott. Scott's treatment deals with the laws in force and criminal law procedure. Special phases of the Revolutionary reform movement in Virginia have been treated by various authors, but there have been few attempts to consider, in detail, crimes and punishments during the period, 1775-1820.

This thesis has been written with emphasis upon the types of crimes committed, the nature of the resulting punishments, and the reform movement which laid the foundation for the present day penal system of Virginia.

Research for the manuscript was done at the Duke University Libraries, and at the Virginia State Library at Richmond, Virginia.

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A. M. H.

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INTRODUCTION

Whenever people migrate to a new and strange land they carry with them, in mind or in code, the laws, customs, culture, and religion of their Mother country. No matter how insistent they are that the laws of their homeland were unfair and inequitable they invariably start out with these same laws--they know no others. Whatever changes and modifications are made to adapt old laws to new circumstances they must first have old laws to serve as precedents and bases for new laws. Such was true in the case of the early English colonists in Virginia.

The criminal laws of Virginia were transplantations of English jurisprudence, with minor modifications to make them conform to the new conditions which were found in the New World.[1]

The first criminal code of Virginia set a more rigid

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[1]Arthur P. Scott, Criminal Law in Colonial Virginia (Chicago, 1930), 323. Hereafter listed as Scott, Criminal Law.

example even than the criminal code of England. This first code, known as Dale's Code or Dale's Laws, was in force from 1610 to 1619. Dale's Code was a combination of "martial, politique, and divine" laws which were enforced under the early governors, Sir Thomas Gates and Sir Thomas Dale.[2]

A summary of the offenses and their punishments will serve to illustrate the harshness of this early code:

> Speaking against the Trinity or articles of the Christian faith--death.
>
> Blasphemy against God, first offense--severe punishment; second offense--a bodkin through the tongue; third offense--death.
>
> Deriding God's word--death.
>
> Disrespect to a minister--thrice whipped and pardon asked in public on three Sabbath days.
>
> Failure to attend Sunday services, first offense --loss of allowance for one week; second offense-- same plus whipping; third offense--death.
>
> Murder, adultery, rape, perjury in court--death.
>
> Fornication, first offense--whipping; second offense--whipping; third offense--whipping thrice a week for one month, also public apology.
>
> Robbing church or store--death.
>
> Treasonable words against the King--death.
>
> Slander or "unfitting speeches" against the Virginia Company of London, or its council or committees, etc., or against any book which the council published, first offense--whipping and public

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[2]Walter F. Prince, "The First Criminal Code of Virginia," in Annual Report of the American Historical Association (1899) I, 311.

contrition; second offense--galley for three years; third offense--death.

Unauthorized trading with the Indians--death.

Robbing an Indian coming to trade--death.

False account rendered by a keeper of colony supplies of any kind--death.

Mariner selling at higher rates than set by the governor and council--death.

Killing any domestic animal or fowl without consent of the general--death.

Failure to keep regular hours of work for the colony, first offense--to lie neck and heels together all night; second offense--whipping; third offense--galleys for one year.

Running away to the Indians--death.

Robbing garden of flower or vegetable, stealing ears of corn, etc.--death.

Refusal to go to the minister to be instructed in religion, first offense--whipping; second offense --whipping thrice and public contrition; third offense --whipping every day 'till public acknowledgment and obedience.

Fraud on part of any baker, cook, or fisherman employed by the colony, first offense--loss of ears; second offense--galleys for one year; third offense --galleys for three years.[3]

In June, 1619, Sir George Yeardley, as the new governor of the colony, called the first General Assembly together and brought about the abolishment of these rigid punishments.[4] The new Assembly then devoted its energies to the enactment of new laws, founded on those of England, but which were less harsh

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[3] Ibid., 312.

[4] Ibid., 363.

than earlier laws and more appropriate to the conditions of the colony.

To replace the abolished laws the Assembly enacted new laws to include the following offenses and their punishments:

> Treason--death.
> Murder, rape, manslaughter--death
> Bigamy--death
> Selling arms or ammunition to Indians--forfeiture of goods and chattels. Imprisonment for life.
> Failure to attend Sunday services--fine of fifty pounds of tobacco.
> Fornication--39 lashes, public repentance.
> Adultery--39 lashes, public repentance.
> Stealing--39 lashes or fifty pounds of tobacco.
> Slander--Ducking stool, presentment to church wardens.
> Parleying with the Indians--20 lashes.
> Scolding--ducking stool.
> Drunkenness--fine, fifty pounds of tobacco.
> Swearing--fine, twelve pounds of tobacco.
> Divulging false news--fine, two thousand pounds of tobacco.
> Inducing servants to run away--30 lashes.
> Sabbath breaking--fine, one hundred pounds of tobacco.
> Not carrying gun to church--fine, ten pounds of tobacco.
> Hog stealing--fine, one thousand pounds of tobacco.[5]

In 1632 a general revision of the laws was made by the General Assembly. This revision took the form of collecting, re-enacting, and amending former laws. Major emphasis was placed upon the laws which had to do with offenses against the public economy, and offenses against religion and public morals. Later revisions of both civil and criminal laws were made in

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[5]William Waller Hening, The Statutes at Large of the Laws of Virginia (Richmond, 1810-23), I.

1642-43, 1657-58, and 1705.[6]

Although minor modifications were made in the criminal laws from year to year, in order to meet changing conditions arising in the social, political, economic, and religious attitudes and practices of the colony, no radical changes were made in the principles of criminal jurisprudence.

The amount of fines or the number of lashes was varied from time to time, but a true humanitarian spirit did not become evident in the laws of Virginia until Virginia changed from a colony to a commonwealth in the latter part of the eighteenth century.[7]

A careful study of the criminal law, the punishment of crimes which prevailed, and the jail system which existed in Virginia prior to 1796, reveals a need for rigorous reforms in the penal code. A conscious concern for the rights of man as a human entity was born with the War of Independence, and was given impetus under the leadership of such men as Thomas Jefferson, Edmund Pendleton, and James Madison. From its beginning, this humanistic movement followed a sporadic course, sometimes reaching high peaks and at other times scarcely discernible. To retrace the movements to effect reform in the criminal laws is to trace the maturing of the collective mind which

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[6]The Revised Code of the Laws of Virginia. Printed by Thomas Ritchie (Richmond, 1819), II, 323. Hereafter listed as Revised Code, 1819.

[7]Scott, Criminal Law, 323.

finally broke the inertia of long established custom. The story of the social awakening in Virginia is revealed through a study of the criminal laws, the punishment of crimes, the jails prior to 1796, and their subsequent modification.

PUNISHMENT OF CRIMES IN VIRGINIA, 1775-1820

CHAPTER I

PUNISHMENT OF CRIMES, 1775-1795

The criminal laws of Virginia which were in effect during the last quarter of the eighteenth century were characterized by their stringent nature. Punishments for criminal offenses served to exterminate and mutilate rather than to reform the offenders.

During this period all violations of the criminal laws were divided into two major categories--felonies and misdemeanors. A felony was an offense which occasioned the total forfeiture of lands or goods at common law, and was usually punishable by death. This classification was further divided into felonies which were or were not clergyable.[1] Misdemeanor referred to any one of those indictable offenses below the grade of felony which was punishable by corporal punishment

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[1]William Blackstone, An Analysis of the Laws of England (Oxford, 1726), 113.

and/or fine.[2] The severity of the assigned punishment could be modified only in one of three different ways: pardon granted by the Governor and Council, benefit of clergy, and being released upon promise of good behavior or surety.

Benefit of clergy was the most merciful mitigation of all the general criminal laws with respect to capital punishment.[3] The practice of the benefit of clergy had its origin in Europe and was recognized in England as early as 1136. This practice originally referred to the exemption of clergymen from criminal processes before a secular judge.[4] Pardon could also be granted to those who were able to read, if they avowed their intention to be initiated into the holy orders.[5]

These distinctions came to an end in the reign of Anne, when Parliment put an end to the discrimination between the clergy and the laymen, the lettered and the unlettered.[6] Consequently, common law gradually developed the doctrine that

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[2]John B. Minor, A Synopsis of the Laws of Crimes and Punishments in Virginia (Richmond, 1869), 222.

[3]J. A. G. Davis, A Treatise on Criminal Law. . . . (Philadelphia, 1838), 212.

[4]Arthur Lyon Cross, "The English Criminal Law and Benefit of Clergy During the Eighteenth and Early Nineteenth Centuries," in American Historical Review, XXII (1917), 556.

[5]William C. Sneed, A Report on the History and Mode of Management of the Kentucky Penitentiary (Frankfort, 1860), 9. Hereafter listed as Sneed, History of Kentucky Penitentiary.

[6]_____, "Benefit of Clergy in the American Criminal Law," in Massachusetts Historical Society Proceedings, LXI (1928), 157.

the clergy might be claimed by anyone who was convicted of a crime which was punishable by the death penalty. In Virginia, women, free negroes, mulattoes, and slaves were entitled to the privilege of clergy on an equal basis with free men.[7]

Receipt of clergy was granted to an individual but once in a lifetime. Whenever a person received clergy he was branded in the thumb by the jailer in an open court. This brand was to serve as a mark of identification rather than as a means of punishment.[8]

Benefit of clergy was not allowed to principals for the following offenses:

1. Murder.
2. Arson.
3. Burglary.
4. Wilful burning of any courthouse, prison, or office of the county clerk.
5. Felonious taking of goods from a church or meeting house.
6. Robbing any person within his dwelling place.
7. Robbing any person in or near any highway.
8. Felonious stealing of any horse, gelding, or mare.
9. Felonious breaking of any dwelling house by day, taking away any of the goods or chattels, or putting the owner in fear.[9]

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[7] A Collection of the Acts of the General Assembly of Virginia. Printed by Samuel Pleasants, Jr. and Henry Pace (Richmond, 1803), 46. Hereafter listed as A Collection of Acts, 1803.

[8] Scott, Criminal Law, 105.

[9] A Collection of Acts of the General Assembly of Virginia. Printed by Augustine Davis (Richmond, 1794), 51. Hereafter listed as A Collection of Acts, 1794.

A negative modification of punishment was "surety" for the peace or good behavior. Surety consisted of the preventive measure demanding persons, of whom there was grounds to suspect of future misbehavior, to give full assurance that such action would not happen.[10] This pledge called for securities or bond to be given, and could be required for the instances of:

1. Reputed fathers of such bastard children as were likely to become chargeable to the parish.
2. Whoremongers, common whores, or those who frequented or kept bawdy houses.
3. Persons acquitted, pardoned, or formerly convicted of felony.
4. Gamers or any peace breaker.
5. Idle persons and libels.
6. Likely murderers and manslayers.
7. Night walkers and vagabonds.
8. Persons of bad repute who were suspected of poisoning, robbing, or lying in wait.[11]

Punishment for violation of the criminal laws, as a general practice, consisted of death by hanging, corporal punishment, and/or fine. Death was administered to those persons who had committed a felonious offense and who were unable to obtain executive pardon or benefit of clergy. Corporal punishment was executed mainly through whipping, ducking, and placing the

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[10]William Waller Hening, The New Virginia Justice (Richmond, 1799), 241.

[11]George Webb, The Office and Authority of a Justice of the Peace (Williamsburg, 1836), 51. Hereafter listed as Webb, Justice of the Peace.

offender in the pillory or the stocks.

Instruments for bodily punishment were provided for by the law as early as 1705. At this time the General Assembly passed an act requiring that a whipping post, stocks, and a pillory be erected in every county. Ducking stools were also to be built if the judges of the County Court saw fit.[12]

Of these forms of punishment the lash was probably the most favored, from the standpoint of the law givers, because it was easily administered and, as was true of other forms of corporal punishment, the county was saved the expense of feeding and guarding a prisoner.[13] Usually the convicted offender would be condemned to receive, according to Moses's Law, "forty stripes save one" well laid on the bare back.[14] A typical example of such punishment for misdemeanor was the sentence of one James Thompson who was to receive thirty-nine lashes for trading with slaves.[15] Only in rare instances was

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[12]William Waller Hening, The Statutes at Large of the Laws of Virginia (Richmond, 1810-23), III, 267. Hereafter listed as Hening, Statutes of Virginia.

[13]Philip A. Bruce, Institutional History of Virginia in the Seventeenth Century (New York, 1910), I, 621. Hereafter listed as Bruce, History of Virginia.

[14]Joseph Doddridge, Notes on the Settlement . . . of Virginia and Pennsylvania (Woodstock, 1850), 250.

[15]Lewis P. Summers, Annals of Southwest Virginia (Arlington, 1929), 692. Hereafter listed as Summers, Annals of Virginia. The offender was tried in the court of Oyer and Terminer at Fort Chiswell.

the verdict as great as in the case of one George Miles Arnsted. Arnsted was punished for house breaking and petty larceny by being given seventy-eight lashes on the bare back at the public whipping post.[16]

Ducking was another of the simple and cheap forms of punishment.[17] The ducking stool was especially designed as a means of punishment for scolding-women, but quarrelsome married couples, men, and unruly paupers were also ducked.[18] It appears that more women offenders were subjected to this form of punishment. One example is the case of Nancy Readman, who was sentenced by the judges to be ducked three times at the public ducking stool for scolding.[19]

There is also recorded proof that the ancient forms of punishment, the pillory and the stocks, were used in Virginia during its early history. The County Court of York County sentenced one John Purcell, who was found guilty of forgery, "to stand in the pillory this day one hour--and again on the first day of October court for one hour." In addition, he was to be imprisoned for eighteen months. At the same time, one

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[16]Ibid., 390, citing the Botetourt County Court minutes.

[17]Philip A. Bruce, Virginia, Rebirth of the Old Dominion (Chicago, 1929), I, 241.

[18]Alice M. Earle, Curious Punishments of Bygone Days (New York, 1922), 11.

[19]Summers, Annals of Virginia, 482.

Samuel Longan, who was found guilty of deceit, was ordered to stand in the pillory, to be imprisoned for two years, and to pay a fine of five hundred pounds of tobacco.[20] In 1793, one William Kizer of Botetourt County was put in the stocks for one-half hour for contempt of court.[21]

The above methods of capital and corporal punishment were used for purposes of expediency. Imprisonment in Virginia was primarily for the purpose of detaining prisoners until they could be brought to trial. There were two main reasons for the absence of long term confinement--the expense involved in housing and feeding prisoners, and the lack of adequate jail facilities.[22] There were, however, exceptions to this practice. There is evidence that occasionally felons were released to work at hard labor for a specified number of years, and that some offenders were imprisoned for a comparatively long time.

As early as 1776, Patrick Henry, Governor of Virginia, ordered the keeper of the jail to deliver the negroes in his custody to the manager of the lead mines.[23] This policy was

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[20]Virginia Calendar of State Papers and Other Manuscripts (Richmond, 1808-35), III, 497. Hereafter listed as Virginia State Papers.

[21]Summers, Annals of Virginia, 454.

[22]George L. Chumbley, Colonial Justice in Virginia (Richmond, 1938), 127.

[23]Official Letters of the Governors of the State of Virginia (Richmond, 1926-), I, 6. Hereafter listed as Governors' Letters.

also followed by Governor Benjamin Harrison.[24] William Rose, Keeper of the Richmond Public Jail, kept a list of the criminals who were conditionally pardoned to work for three years as common laborers in the public lead mines.[25] The lenient actions of Governor Harrison were abused at times by the recipients of his policy.[26] In 1782, Governor Harrison offered a reward of twenty-five pounds for the capture of four escaped felons. They had been pardoned to work as common laborers under the directors of the public buildings.[27] By 1789, however, this method of conditional pardon seemed to decline in popularity, and rewards were discontinued for the apprehension of pardoned convicts who had escaped from labor.[28]

Several accounts lead one to believe that some offenders were sentenced to confinement. A petition for pardon of one Robert Mitchel states that he had been imprisoned for more

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[24] Ibid., III, 234. In a letter to the commercial agent, William Hay, Governor Harrison told him that he had released three men who were convicted of felony on the condition that they serve three years in the lead mines. During that period they were not to go farther than three miles from the mines.

[25] Virginia State Papers, III, 379. One of the offenders, who was pardoned, was listed as a "noted horse-thief" from Maryland.

[26] Virginia Gazette and American Advertiser, December 12, 1782.

[27] Daniel Call, Reports of Cases Argued in the Virginia Court of Appeals (Charlottesville, 1900), 644. Hereafter listed as Call, Reports of Cases.

[28] Council Journal, 1789-1791, 84. MSS. in the Virginia State Library.

than twelve months.[29] In the General Court of Richmond several convicted felons were "severally burned in the hand by the jailer in the presence of the Court," after which they were sentenced to remain in prison for one year.[30] There is also recorded that one Mackenzie of Albemarle County was sentenced to fine and imprisonment for having aided in the escape of a man who was to be confined in the stocks for fighting in the "presents" of the magistrates.[31]

It is difficult to make an exact classification of the criminal laws and the punishments for their violation. The division of offenses into felonies and misdemeanors does not give a clear designation of the transgressions. The punishment which was meted out in Virginia during the period from 1775 to 1795 shall be considered as retribution for such criminal offenses as: (I) offenses against the government; (II) offenses against the person; (III) offenses against property; (IV) offenses against public peace; (V) offenses against public justice; and (VI) offenses against public morals.

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[29] Virginia State Papers, IV, 538. The petition requested pardon "on account of the helpless condition of his family, his wife in danger of starvation, she having recently given birth to twins, being among strangers, and having no friends or money."

[30] Ibid., 204.

[31] Ibid., 341.

I Offenses Against the Government

High Treason.

After 1776, treason was defined as levying war against the Commonwealth; adhering to the enemies thereof or giving them aid or comfort. The punishment for this felony was death without benefit of clergy. No attainder was to work corruption of blood, but all lands and goods were to be forfeited to the Commonwealth, saving to the widows their dower in the lands.[32] The governor could not grant pardon for treason. A case in point is that of John Caton, Joshua Hopkins, and John Lamb, who were granted pardons by the House of Delegates, but which were declared invalid without the concurrence of the Senate.[33]

In 1781, an act of the Assembly decreed that persons, upon proof of disaffection to the government, might be banished from the state.[34] Following this enactment eleven persons, charged with high treason, were brought to the public gaol of Richmond.[35] One Letitia Fitzgerald was also confined to gaol

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[32] A Collection of the Public Acts of the General Assembly. Printed by Thomas Nicholson (Richmond, 1785), 40. Hereafter listed as A Collection of Acts, 1785.

[33] Call, Reports of Cases, 634.

[34] Hening, Statutes of Virginia, X, 414.

[35] Virginia Gazette and American Advertiser, June 13, 1782.

for treasonable practices by order of the governor because "a great variety of circumstances concur to induce the belief that this is a dangerous woman, and that she came hither with some wicked intentions."[36]

Those persons conspiring against the Commonwealth by establishing a separate government were to be deemed guilty of misdemeanor.[37] The same applied to those who were guilty of asserting that the United States ought to be dependent upon the Crown of Great Britain. Conspiracy, as a misdemeanor, was punishable by pains and penalties, not extending to life or member, as the court should adjudge.[38]

II Offenses Against the Person

Murder.

Murder, by Virginia statutes, was "the killing of any person, within the Realm, upon malice aforethought, the death ensuing within a year and a day after the stroke given."[39]

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[36] Governors' Letters, I, 376.

[37] Hening, Statutes of Virginia, X, 269.

[38] Samuel Shepherd, The Statutes at Large of Virginia (Richmond, 1835-36), I, 187. Hereafter listed as Shepherd, Statutes of Virginia.

[39] Webb, Justice of Peace, 231.

Such wilful and premeditated killing was punished by death, without benefit of clergy.[40] Those of the gentler sex were not spared from suffering the penalty of this felony. In 1791, one Elizabeth Hazel, a spinster from Rockingham County, was found guilty of murder and was sentenced to be hanged by the District Court at Staunton.[41] Women were also forbidden to murder their bastard children. Any free woman who delivered a bastard child, and endeavored by drowning, secretly burying, or concealing the death of such child, whether the child was born dead or not, was declared guilty of murder.[42]

A most unusual case was that of one Roger, a slave in Pittsylvania County, who was convicted of murder and condemned to die:

> He had once been punished by the County Court for criminal offenses in 1782 by being burned in the hand, and later required to stand in the Pilory one quarter of an hour with both ears nailed to the Same, and then one Ear let loose. After taken down and conveyed to the common whipping post, and there received Thirty-nine Lashes on his bare back, well laid on. This negro had frequently been tried for the crime of poisoning, in Dinwiddie County, during the preceding twenty years; and it was generally believed by respectable persons that he had poisoned 18 or 20 slaves belonging to one person, including some of his own children.[43]

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[40]Hening, Statutes of Virginia, VI, 363.

[41]Virginia State Papers, V, 364.

[42]John Mercer, Abridgement of the Public Acts of Assembly of Virginia (Glasgow, 1759), 264. Hereafter listed as Mercer, Public Acts, 1759.

[43]Virginia State Papers, IV, 284.

Rape.

Rape was punishable by death, without benefit of clergy. To carnally know a woman child under the age of ten years, consent being irrevelant, was punishable in the same manner.[44] Although this crime does not appear frequently in the court records, there are instances of prosecution. Hugh Logan of Augusta County,[45] and a slave by the name of Will, of Botetourt County, were sentenced to be hanged by the neck until dead, each for ravishing and carnally knowing a woman without her consent.[46]

Slaves who attempted to ravish a white woman could be legally punished by another method--castration.[47] In 1778, the Senate of the Commonwealth resolved to pay 300 pounds to Edmund Voss for a negro who was castrated by the order of the Culpeper Court. The slave died as a result of the operation.[48]

Petit Treason.

Petit treason, the murder of a master by his servant, was

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[44] A Collection of Acts, 1794, 256.

[45] Virginia Gazette and American Advertiser, June 22, 1782.

[46] Summers, Annals of Virginia, 87.

[47] A Collection of Acts, 1785, 9.

[48] Journal of the Senate of the Commonwealth of Virginia, 1778-79, 11. Hereafter listed as Senate Journal.

punishable by death. In Colonial Virginia the offense was usually distinguished from ordinary murder in that severe bodily punishment was inflicted before hanging or the person was made to suffer death in a vile manner. This punishment sometimes took the form of drawing after hanging or the convicted person might be burned to death.[49] Such extreme punishment gradually diminished in Virginia during the latter half of the eighteenth century. In 1793, two slaves, Daphine and Nelly, were sentenced to die for the murder of their overseer. Daphine was put to death and Nelly's punishment was postponed until her child was born. The records do not show whether she was hanged or not.[50]

Homicide.

The English common law concerning various degrees of homicide was adopted in Virginia. No punishment was inflicted for excusable or justifiable cases of homicide. Any person killing another by misfortune, or in his own defense, or in any manner without malicious intent was acquitted. Those persons who committed homicide with felonious intent were to be punished by death without benefit of clergy.[51]

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[49]Scott, Criminal Law, 195-197.

[50]Virginia State Papers, VI, 521, 532, 543.

[51]Hening, Statutes of Virginia, XIII, 10.

Manslaughter.

The unlawful killing of a person, without malice, expressed or implied, constituted the offense of manslaughter. This offense was a felony, but within clergy.[52] Often it was difficult to distinguish between manslaughter and murder. In 1791, Commonwealth v. John Crane, a crime of manslaughter was declared murder. John Crane had sent a challenge that he could whip any reaper in the adjoining field. Immediately Abraham Vanhorn answered this challenge, and during the ensuing struggle received fatal wounds from the sharp knife of Crane.[53] In another instance, the District Court of Winchester declared that Robert Mitchell was guilty only of manslaughter when he shot Frederick Becktall, who had intervened in a scuffle between Mitchell and his wife.[54]

Suicide.

Suicide, or self-murder, was the voluntary destruction of one's self through causing a violent and unnatural death.

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[52]Blackstone, An Analysis of the Laws of England, 119.

[53]William Brockenbrough, A Collection of Cases Decided by the General Court of Virginia (Philadelphia, 1815), 10. Hereafter listed as Brockenbrough, A Collection of Cases.

[54]Ibid., 33. The court held that there could have been no former malice.

To be held liable for this offense a person had to be of the age of discretion, of sound memory; and the act must have been committed voluntarily, causing death within a year and a day after the wound was inflicted.[55]

In Colonial Virginia the offender was denied Christian burial and his goods were forfeited to the Commonwealth,[56] but in 1789 the crime of Thomas M'Guire, a Richmond school-master, was left unpunished when he "put a period to his existence by cutting his throat with a penknife."[57]

Maiming.

Maiming was a serious and felonious offense which was punishable by death and forfeiture of goods and chattels. This offense was so punishable because loss of ears might brand a person as a hog-stealer. Maiming consisted of the unlawful cutting out or disabling the tongue, putting out an eye, stabbing, shooting, slitting the nose or lip of any subject.[58] This provision also extended to any limb or member of a person, as shown in the case of one John Blakely who was found guilty of feloniously maiming one George King by biting off both his

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[55]Webb, Justice of Peace, 237.

[56]Scott, Criminal Law, 198.

[57]Virginia Gazette and Weekly Advertiser, December 10, 1789.

[58]Hereer, Public Acts, 1759, 230.

thumbs.[59]

III Offenses Against Property

Slave Stealing.

The stealing of slaves, or the stealing of a free person and selling him for a slave, constituted a felony which was punishable by death without benefit of clergy.[60] The frequent absconding of slaves during this period and the absence of records in such cases have made it difficult to determine to what extent this act was enforced.[61]

Horse Stealing.

Horse-stealing, a typical frontier crime, was one of the most common violations of the criminal law. This offense was punishable by death without benefit of clergy. Accessories or those who harbored horse-stealers knowingly, were subject to suffer death as a felon. If the principal felon were not taken,

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[59] Brockenbrough, A Collection of Cases, 129.

[60] Hening, Statutes of Virginia, XII, 531.

[61] The available newspapers covering this period rarely list a slave as stolen. It was, however, the common practice to advertise for a runaway slave.

whipping post for the first offense. For the second offense, the guilty person was placed in the pillory for two hours with his ears nailed thereto, and at the end of two hours his ears were cut loose from the nails. An appeal could be made to the District Court by paying one-hundred dollars for good security. The third offense was a felony, punishable by death. In addition to the stipulations above, each offender was to pay eight dollars for every hog stolen, one-half of which went to the owner and one-half to the informer. If servants were convicted, the penalty was to be paid by the master, and repaid by the servant at the rate of three dollars for every month of service. Slaves who were guilty of hog-stealing suffered the same punishment as did free persons, with the exception that they received an additional fourteen lashes on the bare back for the first offense. Slave offenders were granted no right of appeal.[66]

If a slave were put to death for hog-stealing his owner was compensated by the government at an appraised valuation.[67] A negro slave, Sawney, was sentenced to be hanged for stealing one hog, three guns, and one harpe. His value was declared by the court to be ninety pounds, and his owner was to be

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[66] Shepherd, Statutes of Virginia, I, 111.

[67] Ulrich B. Phillips, "Slave Crimes in Virginia," in American Historical Review, XX (1915), 336.

compensated by this amount.[68]

Burglary and Breaking.

Burglary was the act of "breaking and entering of a mansion house, in the night time, with intent to kill or steal, though none be killed nor anything stolen."[69] The entering of a house with malicious intent, "the Doors being open, is a breaking; yet 'tis not burglary, unless the door, window, or walls are broken."[70]

Burglary and breaking was treated as a felony, punishable by death.[71] Hanging was inflicted for burglary even when only articles of small value were stolen. The following are examples of such harsh meting out of punishment:

A negro slave, one George West, for stealing three bags of wheat;[72] a slave from Nottoway County for stealing one silver spoon,[73] James, a negro slave of Prince William County, for breaking and entering a corn house and carrying away two

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[68]Summers, Annals of Virginia, 104, citing the Botetourt County minutes. Slave owners were compensated if their slaves were put to death for any capital offense.

[69]Webb, Justice of Peace, 63. "Night" means the interval between 9 p.m. and 6 a.m.

[70]Ibid.

[71]Sneed, History of Kentucky Penitentiary, 17.

[72]Virginia State Papers, III, 612.

[73]Phillips, "Slave Crime in Virginia," 340.

bushels of Indian Corn;[74] and a slave, James, of Spotsylvania County, for having stolen twenty gallons of brandy;[75] were each sentenced to be hanged for their respective crimes.

Robbery.

Robbery was the felonious theft of goods or money from a person accompanied by violence, threats, or by putting the person in fear.[76] In 1781, a negro, one Jack, was sentenced to be hanged on April 23, between 10 and 12 in the forenoon, for taking a quantity of linen, one piece of woolen cloth, and for threatening the lives of Thomas Quirk and Rowland Madison.[77] David Lock and John Franklin, of Richmond, for robbing Mr. Richardson's shop of watches and rings, were burned in the hand and sentenced to the public jail for one year without bail or mainprise.[78]

Larceny.

Larceny was the wrongful and intentional taking of personal goods belonging to another. Grand larceny was the theft of

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[74] Virginia State Papers, V, 261.

[75] Ibid., III, 383.

[76] Richard Starke, The Office and Authority of a Justice of Peace (Williamsburg, 1776), 310.

[77] Summers, Annals of Virginia, 341, citing the Botetourt County Court minutes.

[78] Virginia Gazette and Weekly Advertiser, May 1, 1788.

goods having an intrinsic value of four dollars or upwards; simple larceny was theft of goods of less than four dollars in value.[79] By law, larceny was punishable as a felony, but simple larceny was usually punished by whipping. Peter Stiffey, of Montgomery County, was given fifteen lashes at the public whipping post;[80] and Thomas Bratton, of Wythe County, received twenty-five lashes upon charges of simple larceny;[81] while one David Neely, a boy of about twelve years, was pardoned for the offense of grand larceny.[82]

Forgery.

Forgery was the making of any written instrument for the purpose of deceit or fraud.[83] To forge or to assist in the forgery of any deed, bond, will, bill, note, or receipt, was considered a felony and was punishable by death without clergy. This penalty also extended to the forging of any tobacco or flour brands; or exporting flour or tobacco with any such brand or mark with intent to defraud.[84] William Granger was convicted

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[79]Davis, A Treatise on Criminal Law, 173.

[80]Summers, Annals of Virginia, 817, citing Montgomery County Court minutes.

[81]Ibid., 1360, citing Wythe County Court Minutes.

[82]Virginia Gazette and American Advertiser, June 22, 1782.

[83]Minor, A Synopsis of the Law of Crime and Punishment in Virginia, 157.

[84]Shepherd, Statutes of Virginia, I, 303.

by the District Court of Richmond for forgery and was sentenced to be hanged for his act of fraud.[85] To steal any writ, or cause to be stolen any court records or processes whereby any court judgment shall be reversed,was specified as a felony in 1789, by an act of the General Assembly.[86] Any person obtaining money or goods by false tokens was liable to imprisonment for any period, not to exceed one year, and was to be set upon the pillory as directed by the judges of the court.[87]

Counterfeiting.

In 1778, because the evil was increasing daily, the Assembly passed an act decreeing that to forge, counterfeit, debase, alter, or erase paper money, bills or credit, treasury notes, or loan office certificates, or to pass such knowingly; or to have in one's possession plates or instruments for making them, was a felony without benefit of clergy.[88] During and after the Revolution,Virginia had, seemingly, more than her share of counterfeit bills. The newspapers joined with the Assembly in its fight against the influx of debased currency. The Virginia Gazette and Weekly Advertiser issued such warnings

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[85] Virginia State Papers, V, 376.

[86] Hening, Statutes of Virginia, XII, 23.

[87] A Collection of Acts, 1803, 45.

[88] Hening, Statutes of Virginia, IX, 545.

as "Beware of Half Pistoles now circulating . . . are said to have been made by one John Huges, a silversmith."[89]

Arson.

The willful burning of any dwelling house, tobacco house, warehouse, store house, outhouse, hay rick, or stack of grain, was classified as a felon without benefit of clergy.[90] The offense of arson was not uncommon, and it was not a rare thing for prisoners to set fire to the jail to effect an escape. In New Kent County, for instance, a negro slave, Sawney, was sentenced to be hanged for burning the prison and the clerk's office.[91] Store houses and tobacco houses were often maliciously burned. Daniel, a slave of Buckingham County, was to receive the death sentence for the burning of a tobacco house and a quantity of tobacco.[92]

One of the best examples of the atrocious punishment meted out for the crime of arson was that received by a negro wench, named Violet, for burning her master's dwelling house. The minutes of the Court of Oyer and Terminer, held at the Augusta Courthouse in 1790, tell the story:

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[89]Virginia Gazette and Weekly Advertiser, December 10, 1789.

[90]Shepherd, Statutes of Virginia, I, 148.

[91]Virginia State Papers, IV, 329.

[92]Ibid., V, 394.

> On consideration of which and of the circumstances relating to the crime the court are of opinion that she is guilty and do accordingly order that she be hanged by the Neck until she be dead for the said fact on the fourth day of March next at or near the town of Stanton [Staunton] at twelve o'clock noon and after she is cut down that her head be severed from her body by the neck and Stuck upon a pole in the public place near Staunton and the Court do adjudge the Value of the said Slave to be one thousand eight hundred dollars which is ordered to be certified.[93]

IV Offenses Against Public Peace

Affrays, Dueling, Unlawful Meetings, Assault and Battery.

An affray consisted of fighting between two or more persons. In such case a stroke must be given or offered, or a weapon drawn.[94] The Virginia law made provision that participants in affrays might be punished by imprisonment for a period not to exceed one month.[95]

A person killing another in a duel was to suffer the penalty of death.[96] For carrying a challenge one was subject

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[93]"Oyer and Terminer Court Records," in Virginia Magazine of History and Biography, XVI (1908), 94.

[94]Webb, Justice of Peace, 5.

[95]Hening, Statutes of Virginia, XIII, 334.

[96]Revised Code, 1819, 583. No Virginia statute was enacted to suppress duelling until January 26, 1810. This offense was a felony at common law and was in force in the colony from the English statute.

to the charge of misdemeanor.[97]

Persons suspected of taking part in riots, routs, or unlawful assemblies, could be incarcerated until trial. Those who were found guilty were subject to imprisonment and amercement, according to the judgment of the jury.[98] The conspiracy of slaves to rebel or murder was a felony without clergy.[99] The lifting of a hand in opposition against a white person, participating in riots, unlawful assemblies, or making seditious speeches, by slaves, were to be punished by stripes at the discretion of the jury.[100]

Assault was defined as offering some hurt to the person as by striking; and battery was the wrongful beating of another.[101] In such cases, charges could be brought against the offender by the injured party.[102] Court records do not readily reveal any instances in which assault and battery charges were filed.

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[97]Brockenbrough, A Collection of Cases, 47.

[98]Hening, Statutes of Virginia, XII, 333.

[99]A Collection of Acts, 1803, 189.

[100]Hening, Statutes of Virginia, XII, 182.

[101]Webb, Justice of Peace, 16.

[102]Brockenbrough, A Collection of Cases, 127. No evidence of this offense was found in the available court records.

Slander and Spreading of False News.

In 1792, an act was passed by the General Assembly to prevent idle and busy-headed people from forging and divulging false rumors and reports. Divulgers of false news to the trouble of the country were to be fined forty dollars and bound to good behavior.[103]

Slander was also punishable by fine. Samual Moore and wife were fined by the Botetourt County Court, two pounds, one shilling, and one penny besides cost, for slanderous and defamatory words against one James Templeton.[104] Not all cases of slander, however, were prosecuted. One such case is that of Richard Randolph, Jr. who protested to certain blackened gossip about his character. He declared that he was willing to appear before the next Cumberland County Court to answer to any charges, in order to put a stop to the malicious gossip concerning him.[105]

V Offenses Against Public Justice

Bribery and Champerty.

Early Virginia laws relating to bribery and champerty

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[103] Shepherd, Statutes of Virginia, I, 150.

[104] Summers, Annals of Virginia, 226, citing Botetourt County Court Minutes.

[105] Virginia Gazette and General Advertiser, March 29, 1793.

were direct reflections of the old English statutes. These offenses were punishable by imprisonment and amercement at the discretion of the jury.[106]

Perjury.

Persons guilty of wilfully making a false statement, under oath in some judicial proceeding, were subject to the payment of a fine, not to exceed one hundred pounds of tobacco, and to be imprisoned for six months without bail or mainprise. The oaths of such offenders, henceforth, were not to be received in any court until such judgment was reversed.[107]

In cases where slaves were guilty of perjury the punishment was likely to be more severe. The Court of Oyer and Terminer of Henrico County sentenced a slave, Jeffrey, who was guilty of perjury in the trial of another slave, to be pillored, to have both ears cut off, and to have thirty-nine lashes well laid on his bare back.[108]

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[106] Shepherd, Statutes of Virginia, I, 110.

[107] Heming, Statutes of Virginia, XIII, 35.

[108] Virginia State Papers, VI, 180. From a petition to the governor, written by Jeffrey's owner, John K. Read, praying that the punishment be remitted as far as it extended to cutting off his ears.

VI Offenses Against Public Morals

Sabbath-breaking.

The offense of Sabbath-breaking was a reflection of the early colonial laws which had made church attendance compulsory, and had attempted to regulate the moral activities of every individual. By 1775, church control had been so modified that laboring on Sunday was to be punished only by a fine of $1.67 for each offense. Every apprentice, slave, or servant employed on Sunday and every Sunday that they were employed constituted a distinct offense. For disturbing a congregation in any place of worship a person was to be arrested and bound to good behavior. In case of default in payment of surety, the offender might be committed to prison where he was subject to further imprisonment and amercement at the discretion of the jury.[109]

It is difficult to determine the prevalence of these types of offenses during the latter part of the eighteenth century, or to know just how rigidly the provisions of this law were enforced. It is not uncommon, however, to find petitions to the Assembly asking that an act be passed requiring the magistrates to take cognizance of the crime of Sabbath-breaking when committed in their presence.[110]

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[109] Shepherd, Statutes of Virginia, I, 193.

[110] Journal of the House of Delegates of the Commonwealth of Virginia, 1789, 58. Hereafter listed as House Journal.

Drunkenness, Cursing, and Swearing.

Each offense of drunkenness, profane swearing, and cursing was punishable by a fine of 83 cents. If an offender refused to pay the fine the sum was to be levied on the goods of such person. If there was a default of payment or if the person was unable to pay, the culprit received ten lashes upon his bare back at the public whipping post.[111] The swearing of a single oath constituted a distinct offense. In Montgomery County, Samuel Bailey was fined the amount of 83 cents; and William Patton had to forfeit five shillings, for the profane swearing of one oath.[112] For being drunk at a place where spirituous liquors were sold and the retailing of spirituous liquors without license called for a larger fine. One such offender, Benjamin Vowter, was called to forfeit the sum of $33.33.[113] Answering to the charge of drunkenness, James McCreery was sentenced to pay five shillings; and a justice of Wythe County Court, William Love, was removed from court for intoxication when the other three, or "three-fourths of the members present," declared him incapable of acting.[114]

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[111] A Collection of Acts, 1803, 276.

[112] Summers, Annals of Virginia, 830, citing Montgomery County Court Minutes.

[113] Brockenbrough, A Collection of Cases, 127.

[114] Summers, Annals of Virginia, 1366.

Gaming.

During and following the period of the Revolution, laws to prevent unlawful gaming became increasingly stringent. This was brought about through proclamations of the various governors and the conviction on the part of the Assembly members that gaming was a dangerous vice.[115] In 1792, an act to prevent unlawful gaming decreed that all promises and agreements for gaming debts were void. Real estate under incumbrance for gambling debts should devolve to the next of heirs and not to the person to whom incumbrance was made. For gaming in a public house a person was to be fined $20.00 and bound to good behavior. For losing or winning more than $20.00 in twenty-four hours, both the loser and winner were liable to payment of one-half of the entire sum above the $20.00 that he won or lost. Gamsters having no visible means of supporting themselves were to be bound to good behavior for one year. Keepers of gaming tables were to be deemed vagrants and their tables were to be destroyed.[116] Although private lotteries were prohibited by this act, lottery as a means of raising money for public causes was deemed legitimate.[117]

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[115] Governors' Letters, I, 1366.

[116] A Collection of Acts, 1794, 183-185.

[117] Virginia Gazette and General Advertiser, March 16, 1791; August 2, 1792. Announcements of public lotteries appeared frequently in the newspapers.

Most offenses of unlawful gaming were punishable by fine. In the case, Commonwealth vs. John Richards, John Richards was fined $150.00 for allowing gaming to be carried on in his dwelling house and for permitting a faro-bank to be opened in one of his outhouses.[118]

In spite of the vigorous efforts of the Assembly, it is probable that the public did not take punishments for gaming too seriously. Issac Weld, Jr. in his Travels Through North America, affirms this belief. He tells of gaming in Virginia:

> Perhaps in no place of the same size in the world is there more gambling going forward than in Richmond. I had scarcely alighted from my horse at the tavern, when the landlord came to ask what game I was partial to as in such a room there was a faro-table, in another a hazard table, in a third a billiard table, to anyone of which he was ready to conduct me. Not the smallest secrecy is employed in keeping these tables; they are always crowded with people, and the doors of the apartment are only shut to prevent the ramble from coming in. Indeed, throughout the lower part of the country in Virginia, and also in that part of Maryland next to it, there is scarcely a petty tavern without a billiard room, and this is always full of a set of idle low-lived fellows, drinking spirits or playing cards, if not engaged at the table.[119]

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[118] Brockenbrough, A Collection of Cases, 133.

[119] Isaac Weld, Jr., Travels Through the States of North America . . . (London, 1807), I, 191.

Vagrancy.

Due to an increase in the number of idle and disorderly persons, in 1776, the General Assembly ordered that all those declared rogues and vagabonds were to be caused to appear before a justice and to give security for good behavior. If the offender then refused to take up some honest labor he was to be placed in jail until the next court or until he agreed to work.[120] The absence of records for such cases, however, makes it difficult to determine the extent to which the punishment was effected.

Sexual Offenses.

Bigamy was punishable as a felony and the offender was to suffer death. A second marriage was not considered bigamy when there was legal divorce; when one party continually remained beyond the seas or in the United States for seven years without the other party knowing the party to be living; or when any marriage was declared void. The felony of bigamy was to bring no corruption of blood or forfeiture of estate.[121] White persons who married negroes were to be imprisoned for six months without bail or mainprise and were to pay $30.00 to the parish. For incestuous marriage the parties were to be

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[120] Hening, Statutes of Virginia, IX, 208.

[121] Ibid., XII, 691.

punished by fine and might be separated for all time if the court saw fit.[122] Forcible or stolen marriage was punishable by imprisonment for a term not exceeding two years.[123]

For the offense of bastardy or for a free woman to have an illegitimate child, the offender was to pay the penalty of a twenty shilling fine. Servant women were to serve their masters one extra year for every offense. Every bastard child was to be bound as an apprentice until, if a male, he reached the age of twenty-one years, or if a female, reached the age of eighteen years. The father of such a child was required to pay the church wardens, who saw that the child was properly cared for.[124]

The offense of bastardy was not uncommon. The judges of Botetourt Court decreed that Margaret Dunan should serve her master for twelve months after her term had expired for having a mulatto bastard.[125] In the same county, James Williams was ordered to give security to the church wardens for the maintenance of the child of Katharine Palmers.[126] One Sissel Andrews was fined 50 shillings and costs for having a bastard

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[122]Shepherd, Statutes of Virginia, I, 135.

[123]Hening, Statutes of Virginia, XIII, 8.

[124]A Collection of Acts, 1785, 12-13.

[125]Summers, Annals of Virginia, 140.

[126]Ibid., 138.

child;[127] and in Montgomery County, Catherine Lover was fined 20 shillings for the same offense.[128]

By the Virginia law, the penalty for adultery was twice as severe as the penalty for fornication. Every offense of adultery was to be punished by a fine of $20.00, while the fine for each act of fornication was $10.00.[129] Punishment varied, however, from county to county in actual practice. In Botetourt County, Andrew McGee and Sissel Andrews were to pay five pounds to the church parish for fornication,[130] while Judith Walker of Montgomery County was fined the same amount for committing the act of adultery.[131]

Buggery, an unnatural sexual offense with man or beast, was punishable as a felony without benefit of clergy.[132]

Summary.

The criminal code of Virginia, from 1775 to 1795, was written upon blood-stained pages in both theory and practice.

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[127] Ibid., 93, citing Botetourt County Court Minutes.

[128] Ibid., 830.

[129] A Collection of Acts, 1794, 287.

[130] Summers, Annals of Virginia, 93.

[131] Ibid., 830.

[132] Shepherd, Statutes of Virginia, I, 113. This offense was rarely committed or, at least, brought into court. There was one such case presented, 1 Virginia Cases, 80.

It is difficult for one to comprehend that such inhumane and revengeful punishments were practiced, and were sanctioned, by an enlightened people less than a hundred and fifty years ago.

The methods of criminal punishment were, in the main, a reflection of the laws and practices of England. The greater number of the offenses were punishable by death and there were no steps taken by which punishment was made to be commensurate with the severity of the crime. Only in rare instances was the provision made for terms of imprisonment--bodily punishment was considered more economical and expedient. One of the major causes for the existence of these evils was the inadequacy of the jail system.

CHAPTER II

JAILS OF VIRGINIA PRIOR TO 1796

In the early history of Virginia jails were crude in construction and inadequate in both number and serviceability. They were often simple log cabins, usually constructed in the form of dwelling houses, whose main purpose was the detention of persons accused of criminal offenses until they could be brought to trial.

The Virginia jail system is the oldest in America. Provisions were made for it in 1606 by James I when he designated English law as the law of the Colony.[1] Under this law imprisonment had become fairly well established at Jamestown by 1626. This type of confinement was not, however, imprisonment for punishment of crime; it served rather for the detainment of persons who were suspected of violating the law and were

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[1]..... "The Virginia Jail System." A Report of the Jail Commission to the General Assembly of Virginia (Richmond, 1937), 9. Hereafter listed as "The Virginia Jail System," Jail Commission Report.

being held until the next meeting of the General Court which met quarterly at the Capital.[2]

The first legislative act to deal with jails was passed in 1642-43 by the General Assembly. Eight years prior to this, counties had been laid off and county seats designated. By the act of 1642-43, the county commissioners of each county were to cause sufficient prisons to be erected in order to detain the serious offenders until they could be taken to Jamestown to stand trial.[3]

The county prisons were to be in the "form of Virginia houses" sufficiently strong to prevent criminals from escaping.[4] To discourage escapes the General Assembly provided that prison-breaking should be a felonious offense, punishable by death.[5] In the beginning, those counties which did not comply with the orders of the Assembly used their taverns for temporary jails. In those counties where regular jails were erected, most of the buildings were of frame or log construction,

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[2]Frank William Hoffer, et al., The Jails of Virginia (New York, 1933), 13.

[3]Hening, Statutes of Virginia, I, 264-65. The County Courts were not empowered to hold trial for the more serious offenses, whose punishment extended to life or member. These prisoners of prisoners were to be taken by the sheriff of their respective county to be tried by the General Court of Jamestown.

[4]Bruce, History of Virginia, I, 634.

[5]Hening, Statutes of Virginia, I, 340.

averaging about ten by fifteen feet in dimensions. One of the few brick ones was the common jail at Jamestown which was erected, upon order of the Assembly, by the several counties.[6]

Some counties were slow in complying with the order of the General Assembly regarding the construction of prisons. In 1657-58, the Assembly re-enacted its former provision requiring the county commissioners to see that sufficient prisons were built.[7] By this same enactment, the sheriff was enabled to recover damages from the county if a prisoner escaped for lack of an adequate prison.[8] For the third time, in 1661-62, the Assembly ordered that "a good strong prison after the forme of Virginia houses" be built in each county.[9] The edict was made even more forceful by the provision that each county court should erect its jail within eight months after the passage of the act, or be subject to a fine of 5,000 pounds of tobacco.[10] In spite of the good intentions of the Assembly and the finality of their decree, their orders seemingly remained unheeded in some instances. Governor Culpeper reported in 1683 that:

> . . . there are in effect no prisons, but what are soe easily broken, that I could it a miracle,

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[6]Hoffer, Jails of Virginia, 15.

[7]Hening, Statutes of Virginia, I, 444.

[8]Ibid., 360.

[9]Ibid., II, 76.

[10]Ibid., II, 77.

> The Foure [prisoners] I committed did not escape. I am sure I was in paine all the while and would scarcely sleepe for fear thereof.[11]

In the year following this report the Assembly, for the fourth time, issued an order requiring the justices of every county to see that strong and substantial jails be built. For failure to comply with this mandate, judges of the county court were, as a body, subject to a fine of 5,000 pounds of tobacco and held liable for any prisoners who escaped.[12] This order of the Assembly was taken more seriously than the previous ones. This is shown by the fact that the House of Burgesses, in 1693, declined to cause any more jails to be provided for the reason that such buildings had already been erected.[13]

In the meanwhile, the public gaol[14] at Jamestown was in a deplorable state. George Wilson, a Quaker preacher, who had been confined in one of the jails for his religious zeal, wrote of it thus:

> What will become of you who put us into such nasty, stinking prisons, as this dirty dungeon, . . . where we have not so much as air to blow

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[11] ..... "Lord Culpeper's Report on Virginia," in Virginia Magazine of History and Biography, III, (1895), 231.

[12] Hening, Statutes of Virginia, III, 14.

[13] Bruce, History of Virginia, I, 636.

[14] Gaol was the common English spelling for jail.

in at a window, but close made up with brick and lime. . . .[15]

The seat of government was moved from Jamestown to Williamsburg in 1698,[16] and three years later an act was passed directing that a brick prison be built for the use of the colony and the city of Williamsburg.[17] The prison was to be 30 feet long and 20 feet wide. There were to be three rooms on the lower floor, two for the separate confinement of the two sexes, and the third room, together with the chamber overhead, were for the jailer and his family.[18] The jail was completed by 1703 and served the colony as the public gaol until 1779.[19] Although Hugh Jones in his Present State of Virginia speaks of this public gaol as "A strong sweet Prison for criminals,"[20] the rooms were unheated and prisoners were made to sleep on straw which was placed in the corners of the

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[15]Edward D. Neill, Virginia Carolorum (Albany, 1886), 285.

[16]Henry Howe, Historical Collections of Virginia . . . . (Charleston, 1845), 321.

[17]Hening, Statutes of Virginia, III, 214.

[18]Lyon G. Tyler, Williamsburg, The Old Colonial Capital (Richmond, 1907), 221.

[19]"The Virginia Jail System," Jail Commission Report, 9.

[20]Hugh Jones, The Present State of Virginia (New York, 1865), 30.

rooms.[21]

In 1748, the Assembly again renewed its campaign against the insufficiency of the county jails. An act was passed requiring that every county court should cause to be built and kept in good repair, one county prison. This prison was to be built of brick or timber at county expense. The windows and chimneys of the prison were to be grated with iron bars and the doors were to be strongly secured by good locks. For failing to carry out these provisions, each justice was made liable to a forfeiture of 500 pounds of tobacco.[22] The enactment, however, did not gain widespread support and compliance. There were many complaints about inadequacy of the county jails, and many jailers resigned their commissions because of the insecure conditions of the gaols.[23]

Some counties did not build jails until the late 1770's. In Montgomery County workmen were authorized to build a prison of logs not less than 20 feet by 18 feet.[24] It was at this same period that the court of Botetourt County ordered that a log cabin 20 feet long and 16 feet wide be built for a prison

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[21]Hildegarde Hawthorne, Williamsburg Old and New (New York, 1941), 165.

[22]Public Acts, 1759, 288.

[23]See Virginia State Papers, VIII, 390, and Summers, Annals of Virginia, 620, 702.

[24]Summers, Annals of Virginia, 66.

and that a Gaoler's House be erected at the end of it.[25]

Partly because of the assailability of Williamsburg to the aggression of the enemy, and partly because of the westward extension of the population, the seat of government was moved to Richmond in 1779.[26] The jail of Henrico County was used until a "more commodious" one could be erected.[27] This new public gaol was, obviously, poorly constructed because six years later William Rose, the keeper, informed the Governor that "the floors and sleepers are rotten and should be repaired at once."[28] This report, and others similar to the one of James Hughes, who "got badly frost-bitten by lying in such an extreme cold place" while confined in the jail,[29] led the Grand Assembly to resolve that "jails of the Commonwealth ought to be made more secure, less inconvenient to the prisoners confined therein, and kept in good repairs."[30]

The General Assembly again, in 1792, passed an act concerning the improvement of jails. The act decreed that every court of every county and corporation within the Virginia

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[25] Ibid., 77.

[26] Howe, Historical Collections of Virginia, 305.

[27] Hening, Statutes of Virginia, 89.

[28] Virginia State Papers, IV, 142.

[29] Ibid., III, 56.

[30] House Journal, 1789, 7.

Commonwealth should cause to have built and kept in good repair, a common prison, well secured with iron bars and locks. This provision also empowered justices to assign prison rules in their respective counties. For violation of this act justices should forfeit the sum of ten dollars and were to be held liable for the escape of any of their prisoners.[31]

Still these precautions offered no serious barriers to the escape of the more determined criminals. Oftentimes escapes would be effected through setting fire to the prison itself; or through an outsider's setting fire to another building and drawing the attention of the town's inhabitants away from the prison while the prisoners made good their escape.[32] A major portion of escapes, however, were attributed to the frail construction of the jails,[33] and to the neglect of duty upon the part of jail keepers or the prison guards.[34]

Regulations and Conditions of the Jails

It was the duty of the governor and council to appoint the keeper of the public prison at Richmond and a jailer for

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[31]Hening, Statutes of Virginia, XIII, 454.

[32]Virginia State Papers, V, 198.

[33]Ibid., V, 608.

[34]Ibid., III, 603.

each district of the Commonwealth.[35] The governor and council were also authorized to superintend the public jail and to direct allowances for prisoners and compensation to the keeper as they deemed reasonable.[36] The judges of the District Court had the same jurisdiction over the county prisons. As a general rule, however, the jail keeper's salary was twenty-five pounds per year.[37] He was also allowed 21 cents per day for the maintenance of each debtor, and 17 cents per day for the maintenance of each criminal in his jail.[38]

Irregularity of payment and the insufficiency of these sums sometimes worked grave hardships upon both jailed and jailer. In the early summer of 1795 some prisoners were committed to the jail in the District of Washington to be tried for capital offenses at the October term of court. The District judges failed to appear at the scheduled time and the jailer was left to hold the prisoners until the May term of court. During the winter, appeals were made to the Assembly to relieve the hardships of supporting the prisoners because the jailer "is a poor man and barely able to support himself and family."[39] Attempts to remedy such conditions were made through

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[35] Hening, Statutes of Virginia, XII, 756.

[36] Ibid., IX, 478.

[37] Ibid., XIII, 206.

[38] Hening, The New Virginia Justice, 276.

[39] Virginia State Papers, VIII, 323.

acts which empowered the governor to inquire into the situations of confinement, and to take measures to release the prisoners if he saw fit.[40] Upon other occasions the Assembly would appoint committees to inquire into the conduct of certain gaol keepers.[41]

Little thought or preparation was given to the internal regulations of the jails or to the prisoners. The only provision made by law was an act which empowered the magistrates of each county to mark out a parcel of land adjoining the prison for use by those confined to the jail. Those prisoners who were not convicted for treason or felony and who gave good security were to be allowed to walk within this space for the preservation of their health.[42]

William Rose, keeper of the public jail at Richmond, made a plea for proper regulations of his jail and for the construction of a near-by keeper's residence as early as 1783. A vivid picture of the internal scene of the public gaol is given in Rose's letter to the judges of the General Court:

> The Present Prison being surrounded by tippling houses, liquor is conveyed to them [the prisoners] by the guards, by disorderly people plying around the pickets. . . . they drink frequently to excess and immediately the Prison is all riot and confusion

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[40] Journal of the Senate, 1786, 85.

[41] Governors' Letters, I, 81.

[42] Public Acts, 1759, 289.

> and more than once the life of the keeper has been in danger in quelling those unhappy wretches committed for murder and robbery when intoxicated.[43]

Such conduct in the vicinity of the gaol often rendered "it unsafe for the keeper to go from his house to the Prison, either by day or by night."[44]

Inasmuch as most jails were small and comparatively few in number, crowded conditions within the jails were inevitable. Only in winter when prisoners were forced to huddle together for purposes of warmth did these over-crowded conditions in unheated jails serve a purpose. But during hot weather the stench which arose from these crowded quarters was "shocking to humanity."[45]

There was little, if any, concern for sanitary measures in the jails. Water for drinking and washing purposes was often scarce in quantity and inconvenient in location.[46] Deplorable conditions of sanitation are illustrated by a letter written by William Rose to the Governor. In it he complained that he had but one slave, an idiot, to aid him. His former helpers, who were hired negroes, ran away on account of the filthy work that they were compelled to perform "in carrying upon their heads the buckets of excrement and urine three or four times a day to the River."[47]

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[43] Virginia State Papers, III, 471.

[44] Ibid., IV, 22.

[45] Ibid., IV, 369.

[46] Ibid., III, 538.

[47] Ibid., III, 504.

A petition to the governor from the prisoners in the public jail in Richmond further reveals the unhealthful and unwholesome conditions to which convicts were subjected. The petition stated that:

> (Praying him to remove one Joseph)
> . . . out of the room where we are forced to stay, as the Grievous Smell Is So Externally and preceivable that we can hardly Sustain Life with him, for the Pox is so Grounded on him that he is almost Rotten, which Raise so pernicious a Smell we all feel in preceivably.[48]

In view of such conditions, it is readily understandable how there were instances of impaired health, and even death, resulting from protracted periods of confinement.[49]

It was lawful in all instances to restrict a felon with irons to prevent his escape, but jailers were not legally permitted to subject their prisoners to undue pain or torment.[50] In some cases, nevertheless, prisoners were at times kept in

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[48] Ibid., IV, 78.

[49] Ibid., III, 375; Ibid., IV, 517; Ibid., V, 379.

[50] Hening, The New Virginia Justice, 276-77.

chains for long periods of time.[51] One Hugh Dowell, of Prince William County, found guilty of passing base coin and placed under the death sentence, was chained to the cold floor with forty weights of iron. Under this burden he was restricted to one position during the severity of the winter.[52]

In another instance, M. Anderson, in pleading executive pardon for a negro, James, tells of the punishment to which the slave was subjected: "He has suffered sufficiently--being naked, chained to the floor, his flesh worn by the irons, and his coffin kept steadily in his view."[53]

Only in isolated instances were the moral, spiritual, and physical needs of prisoners given conscious consideration. Providing the bare necessities of life in food and clothing was considered the primary responsibility of the county. Oftentimes these meager provisions were scarcely sufficient to sustain life. Even the jail keepers, too often, looked upon their charges as unfortunate segments of humanity, to be kept alive

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[51]There are many accounts of such treatment. Charles Moss, Keeper of the Public Gaol, reported the escape of three prisoners to the governor. He claimed that the prisoners were "handcuffed and fettered as securely as possible." Virginia State Papers, VI, 200. In another report Moss explains that he is unable to leave the prison because the malefactors have cut off their irons. Ibid., IV, 324. In another instance, executive pardon was pleaded for a slave, one Charles, because "he has suffered long from confinement in irons." Ibid., III, 342.

[52]Virginia State Papers, V, 557-58.

[53]Ibid., V, 95.

and prevented from escaping until they could be brought before the court where they were sentenced or released to society.

There are two recorded instances where provisions were made to give moral instruction to convicts in the public jails at Richmond. William Rose, in 1783, engaged one Reverend Beagrove to attend the malefactors. Those who were condemned to spend all their time in idleness, "thankfully acknowledged" this act of thoughtfulness on the part of the keeper.[54] The second instance is that in which Governor Patrick Henry ordered the keeper of the public gaol to take all of his prisoners--those who were under death sentences--to the city church every Sunday between the time of their condemnation and their execution.[55]

It was the common practice to give to prisoners only a limited amount of clothing. In a letter to the General Court, William Rose reported, in 1787, that "four criminals are almost naked."[56] The Virginia Gazette and American Advertiser gives a clue to the type of clothing provided prisoners. In a notice offering a reward for the apprehension of one Luke Linley, it

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[54] Ibid., III, 538. In this letter to the governor, William Rose expressed the wish that Mr. Beagrove be legally appointed, with an adequate salary for his trouble. There is no evidence to show whether or not his wishes were granted.

[55] Governors' Letters, I, 145.

[56] Virginia State Papers, IV, 352.

was stated that "he made his escape, barefooted, barelegged, having on only a very dirty shirt and leather breeches."[57]

Even as temporary places of detainment, the jails of Virginia prior to 1796, were inadequate as judged by any present day prison standards. Society had little protection from desperate and incorrigible convicts when they were imprisoned in poorly constructed jails looked over by lax guards and indifferent jailers; sanitation facilities within the jails were considered deplorable even by the standards of a people who lived a hundred years before the formulation of the germ theory.

The science of penology was unknown to the early law makers. To them, county gaols were places of temporary confinement where the prisoners were held while awaiting trial. Little or no thought was given to the confined person's physical comfort or spiritual welfare. The idea of reform played but a small part in the legislative planning of early prisons, and the treatment received by the prisoners under these conditions was not conducive to rehabilitation.

Death by hanging probably would have been a welcomed relief to the man who had been bound in one position on a jail floor, with forty pounds of chains, throughout the months of a severe winter. Such cruel conditions, however, resulted not from deliberate planning or intentional maltreatment upon the

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[57]Virginia Gazette and American Advertiser, July 19, 1780.

part of those in authority; rather they were, primarily, the results of the lack, in number and adequate facilities, of the county jails.

There were a few persons during this period who recognized that the jails were breeding houses of crime and that imprisonment of wrongdoers in such places served most often to induce a disrespect for justice than to deter individuals from unlawful action. In 1795 Governor Robert Brooke, in his report to the General Assembly, stated that:

> The defective and wretched state of the gaols almost throughout the Commonwealth exhibit daily so many instances of injustice, cruelty, escapes, and expence, that I hope I shall be excused for again presenting that subject to the consideration of the Legislature.[58]

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[58]Executive Letter Book, 1794-1800, 181. MSS. in the Virginia State Library.

CHAPTER III

CRIMINAL LAW REFORMS, 1775-1820

With the adoption of the Constitution of 1776, Virginia had effected the first major step in its transition from colony to commonwealth. Of the remaining problems, the need for a revisal of the laws, both civil and criminal, was of the utmost importance. Such a revision was necessary in order that the laws be in keeping with the new republican government.[1]

The movement that struck against the old order was lead by Thomas Jefferson. He was interested in reforms pertaining to religion, land laws, penal laws, and education. Especially was his interest caught by the existing criminal laws; laws which showed little concern for the rights and welfare of the common man.[2]

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[1]Charles R. Lingley, "The Transition in Virginia from Colony to Commonwealth," in Columbia University Studies in History, Economics and Public Law, XXXVI (1910), 78. Hereafter cited as Lingley, "Transition in Virginia."

[2]H. J. Eckenrode, The Revolution in Virginia (New York, (1916), 171.

In view of these convictions, Jefferson, in 1776, introduced a bill in the General Assembly for the creation of a committee whose purpose would be the revision and codification of the laws of Virginia.[3] Such a committee was appointed on November 5, 1776. This body was given full power to alter, amend, and repeal the existing laws, and to present the revised forms as bills at the next meeting of the General Assembly.[4] The committee was composed of Thomas Jefferson, Edmund Pendleton, George Wythe, George Mason, and Thomas Ludwell Lee.[5]

The committee met at Fredericksburg on January 13, 1777, to apportion the work. Lee and Mason, who were not lawyers, resigned because they did not feel qualified to undertake such a measure.[6] Pendleton was assigned to work on the Virginia statutes; Wythe's task was the study of the British statutes which were in effect from the time the Virginia legislature was established up to the time of revision; and to Jefferson fell the common law, the British statutes up to the time of the establishment of the Virginia legislature, and the whole

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[3]Paul Leicester Ford (ed.), The Writings of Thomas Jefferson (New York, 1893), II, 196. Hereafter listed as Ford, Writings of Thomas Jefferson.

[4]Hening, Statutes of Virginia, IX, 176.

[5]Kate Mason Rowland, The Life of George Mason (New York, 1892), I, 242.

[6]Ford, Writings of Jefferson, II, 195.

the Plan of Union controversy. Jefferson, in 1775, introduced a bill in the General Assembly for the organization of a militia whose purpose would be the revision and modification of the Virginia Code.[3] Such a committee was appointed on September 5, 1777. Nine days later Wythe was added to the committee.[4] Pendleton was assigned to work on the Virginia Constitution;[5] Wythe's task was the study of the British statutes in effect from the time the Virginia Legislature was established in 1619 up to the Plan of Revision and to Jefferson's bill. Later, the British statutes up to the time of the Virginia Legislature, and the whole

of criminal law.[7]

They decided to preserve the old system of laws in general, but to modify it to the conditions of the new republican government. The members of the committee were of the opinion that there should be a radical change in the criminal laws. Of this Jefferson related:

> On the subject of the criminal law, all were agreed, that the punishment of death should be abolished, except for treason and murder; and that, for other felonies, should be substituted hard labor in the public works. . . .[8]

Each committee member worked upon his respective assignment for over two years. They met at Williamsburg in February, 1779, where they went over the entire revision until they were agreed on the whole.[9] This finished product, consisting of one hundred and twenty-six bills,[10] was reported to the General Assembly on June 18, 1779.[11]

The section of the revised code relating to the penal laws was the first attempt made in Virginia to arrange punishments which were commensurate with the seriousness of

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[7]Lingley, "Transition in Virginia," 183.

[8]H. A. Washington (ed.), The Writings of Thomas Jefferson (Washington, 1853), I, 43. Hereafter listed as Washington, Writings of Jefferson.

[9]Ford, Writings of Jefferson, I, 195.

[10]Hening, Statutes of Virginia, IX, 176.

[11]House Journal, 1779, 57.

the crime.[12] The new code endeavored to apportion crimes and punishments on the following scale:

I Crimes whose punishment extends to life:
1. High treason--Death by hanging. Forfeiture of lands and goods to the Commonwealth.
2. Petty treason--Death by hanging. Dissection. Forfeiture of half the lands and goods to the representatives of the party slain.
3. Murder--
1. By poisoning--Death by poison. Forfeiture of one-half as before.
2. In duel--Death by hanging. Gibbeting, if the challenger. Forfeiture of one-half as before, unless it be the party challenged, then the forfeiture is to the Commonwealth.
3. In any other way--Death by hanging. Forfeiture of one-half as before.
4. Manslaughter--The second offence is murder.

II Crimes whose punishment goes to limb:
1. Sodomy--Man, castration. Woman, boring through the cartilage of her nose a hole of 1/2 inch in diameter at least.
2. Rape--Same as for sodomy.
3. Maiming--Shall be maimed or disfigured in like fort; for want of the same part, then as nearly as may be in some other part of at least equal value. Forfeiture of half the lands and goods to the sufferer.
4. Disfiguring--Same as for maiming.

III Crimes punishable by labor:
1. Manslaughter--First offence, labor seven years in the public works. Forfeiture of half as in murder.
2. Counterfeiting money--Labor six years. Forfeiture of lands and goods to the Commonwealth.
3. Arson--Labor six years. Reparation three-fold.
4. Asportation from vessels--Same as for arson.
5. Robbery--Labor four years. Reparation double.
6. Burglary--Same as for robbery.
7. House-breaking--Labor three years. Reparation.
8. Horse-stealing--Same as for house-breaking.

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[12] St. George Tucker, Commentaries on Blackstone's Laws of England (Philadelphia, 1803), V, 17.

9. Grand Larceny--Labor two years. Reparation. Pillory for 1/2 hour.
10. Petty larceny--Labor one year. Reparation. Stripes.
11. Pretensions to witchcraft, &c.--Ducking. Stripes.
12. Excusable homicide--To be pitied, not punished.
13. Suicide--Same as for excusable homicide.
14. Apostacy, heresy--Same as for suicide.

IV Slaves guilty of any offence, punishable in others by labor in the public works, shall be transported to such ports in the West Indies, South America, or Africa, as the Governor shall direct, there to be continued in slavery.

V Benefit of clergy shall henceforth be abolished.[13]

A list of the revised laws was read in the Assembly. It was then ordered that the prepared bills be referred to the next session of the Assembly for further consideration.[14] Nothing was done, however, toward adopting the new code at the next meeting of the Assembly. The Legislature devoted its time and energies to military affairs and to the many private claims arising from the war.[15] Thomas Jefferson resigned from the committee to take up his duties as the new governor of Virginia.[16] In his Notes on Virginia, he gave an account of the attempted revision:

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[13]Report of the Committee of Revisors, 1776 (Richmond, 1784), 46-47.

[14]House Journal, 1779, 57.

[15]Lingley, "Transition in Virginia," 184.

[16]Washington, Writings of Jefferson, I, Chronological Calendar.

> The first assembly which met after the establishment of the commonwealth, appointed a committee to revise the whole code, to reduce it into proper form and volume, and report it to the assembly. This work has been executed by three gentlemen, and reported; but probably will not be taken up till a restoration of peace shall leave to the Legislature leisure to go through such a work.[17]

In the meanwhile, the Assembly, by a resolution on June 16, 1783, directed that all ordinances and laws passed since the 1769 edition should be collected and published as one code. The collection was to be under the supervision of any two of the judges of the High Court of Chancery. This edition, called The Chancellors' Revision, was printed in 1785.[18]

Following the termination of the Revolution, James Madison took up the revised code where the former committee had left off. He, through an order of the Assembly, had printed 500 copies of the revised code.[19] The proposed code, however, was not taken up until the fall session of the Legislature in 1785, when Madison, as Chairman of the Committee of Justice, presented 117 of the revised bills.[20]

It was late in the session that Madison wrote to James Monroe:

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[17]Thomas Jefferson, Notes on the State of Virginia (Richmond, 1853), 146-147.

[18]Hening, Statutes of Virginia, IX, 176. Also Revised Code, 1819, II, 324. Other than these references, no trace could be found of this edition.

[19]Lingley, "Transition in Virginia," 185.

[20]House Journal, 1785, 12.

> We have got through more than half of the Revised Code. The Criminal bill has been assailed on all sides. Mr. Mercer has proclaimed unceasing hostility against it. Some alterations have been made & others probably will be made, but I think the main principle of it will finally triumph over all opposition. I had hoped that this session wd. have finished the code but a vote agst. postponing the further consideration of it till the next, was carried by so small a Majority that I perceive it will be necessary to contend for nothing more than a few of the more important bills leaving the residue of them for another year.[21]

In the fall session of 1786, the work of revision was resumed with vigor. No business was taken up after 12 o'clock on Mondays, Thursdays, and Saturdays, except the bills of the proposed code, and bill by bill was passed by the Legislature with little alteration.[22] This did not hold true in the case of the proposed criminal laws. Madison, in a letter to Thomas Jefferson, expressed the fear that the bill "for proportioning crimes and punishments" would meet with a vigorous attack in the House and would have "another gauntlet to run through the Senate."[23] The bill, however, was not reported to the House during this meeting because of the advance of the session, and

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[21]Gaillard Hunt (ed.), The Writings of James Madison (New York, 1901), II, 202. Hereafter listed as Hunt, Writings of Madison.

[22]William C. Rives, Life and Times of James Madison (Boston, 1859), I, 176.

[23]Hunt, Writings of Madison, III, 292.

the dislike of the subject by some of the members.[24]

In the first meeting of the Assembly, 1787, Madison continued to devote himself to the enactment of the revised code. The bill,which was intended to lessen the severity of the ancient code,continued to be the principal butt for the criticisms of the opposition. Although the proposed enactment was subjected to many amendments, it was finally rejected by a single vote. This result, according to Madison, was largely owing to the prevailing rage against horse-thieves, a class of offenders who was always capable of arousing the ire of the citizens.[25]

Despite the good intentions and the indefatigable efforts of Madison, the criminal laws remained the same symbols of ancient barbarism. Those friends of the revised code received some encouragement in that a bill, introduced by James Madison, "for completing the revision of laws," was passed by both Houses. By the provision of this bill, Edmund Pendleton, George Wythe, and John Blair,were appointed to take into consideration the statutes which had been passed since the report of 1779, and to suggest bills embodying the necessary changes and repeals.[26]

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[24] Ibid., III, 305.

[25] Rives, Life and Times of James Madison, II, 156.

[26] House Journal, 1787, 141.

Others, too, were conscious of the unreasonableness of many of the existing laws. Soon after the rejection of the revised criminal code, the following article, addressed to the public, appeared in the Virginia Gazette and Weekly Advertiser:

> As one branch of the legislature of this commonwealth, by only a majority of one have lately rejected a bill "For proportioning punishments to crimes heretofore capital" an evidence that rays of a liberal and wise policy will at least make their way, into the science of legislation; and in a short time enable us to get the better of those prejudices of education, imbibed from the bloody code of a monarchical government. . . .[27]

Later Movements for Reform

The rejection of the bill "to proportion crimes and punishments" created a reaction in the minds of many against the harshness of the criminal laws. In the Court of Appeals, John Price Posey was sentenced to be hanged for horse-stealing. When Posey answered his charge "a flood of tears choaked the organs of speech, and after some time Judge Lyons pronounced the awful sentence in so effecting a manner as drew tears from the audience and the court."[28] Much of the same concern was

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[27]Virginia Gazette and Weekly Advertiser, March 29, 1787.

[28]Virginia Gazette and Weekly Advertiser, December 20, 1787.

expressed by the Judges of the General Court. Upon sentencing five persons to be hanged, the judges recommended clemency for each of the condemned and stated that "as men we cannot but lament that the laws relating to capital punishments, are in many cases too severe."[29]

The committee which was appointed, in 1787, to consider the laws did not report. Nothing further was done to revise the criminal nor the civil laws until the fall session of the Assembly in 1789. At this time a new committee of seventeen members was appointed for the purpose of revising the laws.[30] This committee regarded itself as a temporary body and reported, on October 31, the state of the existing laws and a plan of future procedure. Edmund Carrington, Chairman, reported of the laws in force that:

> Under the operation of these statutes, the citizens of this commonwealth are in danger of capital executions, attainders, corruption of blood, escheats, and forfeitures of estates, imprisonment, pecuniary mulets and other punishments without scarcely a possibility to access of those immence folios in which their fate is concealed from the eyes of all but professional men; many of them were enacted at different periods, when the rights of the people were little studied, less understood and almost wholly despised; when superstitution or prerogative suppressed the language of free inquiry. Nay, since the fourth year of James the 1st, the statutes have undergone in England several wholesome changes; although this commonwealth by an ordinance of May,

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[29]Virginia State Papers, III, 538. There are other instances in which the same sentiment is expressed. See Virginia State Papers, IV, 210; VI, 479; IV, 333; Ford, Writings of Jefferson, IV, 169.

[30]House Journal, 1789, 10.

1776, has determined to embrace them in their original rigor and imperfection.[31]

In consequence of this report, a committee consisting of James Mercer, Henry Tazewell, Joseph Prentis, St. George Tucker, Edmund Randolph, James Innes, John Taylor, and John Marshall, was appointed to revise the laws and to report to the General Assembly.[32] The report of this committee was laid before the Legislature in the fall session of 1790.[33] Another committee, of nineteen members, was designated to consider the report and to formulate bills to remedy the evils of the laws then in force.[34]

The chairman of this committee, Henry Lee, reported later in the session. The committee recommended that "certain persons learned in law, should be named to revise the laws and should have adequate salaries for their services. They should be allowed to reduce the multiplicity of laws into single acts and to repeal any unfit or unnecessary laws existing in the code."[35] In compliance with this proposal, Henry Tazewell, St. George Tucker, Arthur Lee, William Nelson, Joseph Prentis, and James Monroe, were appointed to serve as a committee to

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[31] Ibid., 26-27.

[32] Hening, Statutes of Virginia, XIII, 9.

[33] House Journal, 1790, 42.

[34] Ibid., 121.

[35] Ibid., 122.

prepare a new edition and to revise the existing laws.[36]

This committee met in Williamsburg in July of the following year to divide the assignment and to allot to each his duty.[37] Three months later, the members met again to discuss the measures that had been prepared.[38] The work of this committee was finished and approved by the Legislature in the first session of 1792.[39]

This revision was a collection and condensation of former enactments which included one hundred of the bills of the 1776-1779 revision.[40] Although none of the criminal laws were revised, the act of 1776, which declared the statutes of Great Britain in force within the Commonwealth, was repealed.[41] This revision marked the transition in Virginia from colony to commonwealth.[42]

Very little, if any, legal attention was devoted to the reformation of the criminal laws from 1792 to 1796. This was

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[36]Council Journal, 1789-1791, 421. MSS. in Virginia State Library.

[37]Virginia State Papers, VI, 456.

[38]Stanislaus M. Hamilton, The Writings of James Monroe (New York, 1898), I, 224-225.

[39]Executive Letter Book, 1788-1792, 259. MSS. in the Virginia State Library.

[40]Revised Code, 1792. Printed by Augustine Davis (Richmond, 1794), I, II.

[41]A Collection of Acts, 1803, 291.

[42]Lingley, "Transition in Virginia," 188.

due, in no small degree, to a factor pointed out by Thomas Jefferson. He observed that:

> Although other writers on crimes and punishments, had satisfied the reasonable world of the unrightfulness and inefficacy of the punishment of crimes by death . . . the general idea of our country had not yet advanced to that point.[43]

This four-year period, however, was a formative one. It was during this time that the mental stage was set for the revision of the ancient code.

One factor which gave rise to the reform of criminal laws and punishments for crime was the growth of enlightened criticism abroad.[44] During the eighteenth century, many European writers made powerful attacks upon the injustices of criminal jurisprudence. These attacks did much to arouse interest in the Western Countries in the latter part of the century.[45] The barbarism of the colonial penal system was attacked by French writers such as Montesquieu,[46] Diderot, Turgot, Voltaire,[47] and Condorcet.[48] They were joined in their efforts

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[43]Washington, Writings of Jefferson, I, 45.

[44]Harry Elmer Barnes, The Evolution of Penology in Pennsylvania (Indianopolis, 1927), 105. Hereafter listed as Barnes, Evolution of Penology.

[45]Marcello T. Maestro, Voltaire and Beccaria as Reformers of Criminal Law (New York, 1942), 139.

[46]Montesquieu, Persian Letters (London, 1736), II.

[47]James E. Acton (ed.), The Cambridge Modern History (Cambridge, 1928), VIII, 13.

[48]Barnes, Evolution of Penology, 75.

by such Englishmen as David Hume, Jeremy Bentham, William Blackstone, Adam Smith, and Thomas Paine.[49]

Voltaire advocated punishment in proportion to the crime and reduction of the death penalties to the least possible number of crimes. His doctrines found expression in the French Revolutionary Penal Code of 1791. By this code, punishments were proportioned to the seriousness of the crime committed.[50]

Beccaria, an Italian, in his Essay on Crimes and Punishments, made the most significant contribution to the reformation of criminal law in the eighteenth century. Through his advocation of the reduction in the severity of penalties and a larger use of imprisonment, he took the lead in the reform movement abroad.[51]

A second major factor, which probably did more than anything else to advance the movement for humanizing the criminal laws, was the influence of the Quaker laws and theories in Pennsylvania.[52] The Quakers of Philadelphia were the first in America to voice the need for reform. They took the lead in organizing "The Philadelphia Society for Relieving Distressed

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[49]Harry Elmer Barnes, "The Historical Origin of the Penal System in America," in Journal of the American Institute of Criminal Law and Criminology, XII (1922), 42.

[50]Harry Elmer Barnes, The Repression of Crime (New York, 1926), 93.

[51]Marquis Beccaria, An Essay on Crimes and Punishments (Philadelphia, 1793), 95. Preface, iv.

[52]Barnes, The Repression of Crime, 88.

Prisoners" in 1776. This Society suspended operations during the Revolution, but reorganized in 1787 under the new title of "The Philadelphia Society for Alleviating the Miseries of Public Prisons."[53]

Largely through the efforts of this organization a new criminal code was enacted for the State of Pennsylvania. By this code the punishment of death was restricted to the crimes of murder, rape, arson, and treason. All other offenses were punishable by hard labor in the public works. The evils of the public labor system, however, did much to counteract the effect of the reform. This led the Society to advocate the introduction of a milder form of punishment.[54] The aims of the Society were finally realized in 1794. It was at this time that the Pennsylvania Legislature enacted a new code of criminal laws, under which all crimes, except murder in the first degree, were punishable by imprisonment and/or fine.[55] A state penitentiary was established at Philadelphia in order that death and mutilation could be replaced by hard labor and solitary confinement.[56]

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[53]Fredrick H. Wines, Punishment and Reformation (New York, 1895), 147.

[54]William Roscoe, Observations on Penal Jurisprudence. . . . (London, 1819), 85.

[55]Barnes, The Repression of Crime, 101.

[56]G. Beaumont and A. Toqueville, On the Penitentiary System in the United States (Philadelphia, 1833), 2.

The effect of these varied influences and movements for penal reforms, on the public mind in Virginia, is reflected in the words of Thomas Jefferson:

> In the meanwhile, the public opinion was ripening, by time, by reflection, and by the example of Pennsylvania where . . . their Penitentiary system on the principle of confinement and labor, was proceeding auspiciously.[57]

The Reform of 1796

The subject of amending the penal laws was resumed by the Legislature in the fall session of 1796. George Keith Taylor, a delegate from Prince George County, was given leave to bring in a bill "to amend the penal laws of the Commonwealth formed upon the principles of Pennsylvania."[58] A committee was appointed to aid Taylor in the preparation of the bill. This committee consisted of Peterson Goodwyn, Thomas Newton, James Singleton, William Waller, Richard Lee, and William Dudley.[59]

The bill was read before the House for the first time on November 29 in the same year, and was assigned to come before

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[57] Washington, Writings of Jefferson, I, 47.

[58] House Journal, 1796, 26.

[59] Earl G. Swem, and John W. Williams, A Register of the General Assembly of Virginia, 1776-1918 (Richmond, 1918).

the Whole House the following day.[60] The House, however, did not resolve itself into a Committee of the Whole until December 1. George Keith Taylor tells the story:

> The House of Delegates, according to the order of the day, resolved itself into a committee of the whole house, on the bill "to amend the Penal Laws of this Commonwealth." While the propriety of some of its clauses was under discussion, and while it appeared that discussion would employ a considerable period of time, a Member suddenly moved the chairman that the committee should rise, and that he as their organ should move that the further consideration of the bill should be postponed until the thirty-first day of March ensuing. The acclamations of "agreed," "agreed," with which the motion was received, communicated to the friends of the bill the most gloomy anticipations of its fate.[61]

It was at this time that Taylor delivered a speech in which he attacked the existing brutal and bloody code, pointing out the advantages of the proposed amendment.[62] As a result, the bill was passed in the House and was approved by the Senate

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[60] Minute Book of the House of Delegates, 1787-1795. MSS. in Virginia State Library.

[61] George Keith Taylor, Substances of a Speech Delivered in the House of Delegates on the Bill to Amend the Penal Laws. . . . (Richmond, 1796), 5.

[62] Ibid., 1-36.

Some writers are of the opinion that Taylor was responsible for the adoption of the new criminal code at this time. His oratorical powers are supposed to have been little inferior to those of Patrick Henry. There is little evidence, however, to support this assumption. See Howison, A History of Virginia, II, 353; Howe, Historical Collections of Virginia, 446; Walter A. Watson, Notes on Southside Virginia, 163.

on December 16, 1796.[63]

After a period of twenty years, the struggle to abolish the old "bloody laws" was consummated in a new set of laws, which was embodied in the Code of 1796. This Code incorporated, almost verbatim, the Pennsylvania criminal laws:[64]

> Punishment by death for crimes committed by free persons shall be abolished, except for murder in the first degree.
>
> Benefit of clergy, abolished. Persons convicted of felony formerly clergyable shall undergo an imprisonment, in the penitentiary for any time not less than six months, nor more than two years.
>
> Penitentiary
>
> I The executive is to purchase land, sufficient for a penitentiary, in or near the city of Richmond. The penitentiary shall be built of brick or stone as to prevent fire. It shall be sufficient to contain 200 prisoners at least. There shall be an adjoining yard sufficient for the convicts to walk around and to labor in. The yard is to be surrounded by a wall of sufficient height to prevent the escape of prisoners and without unnecessary exclusion of air.
>
> II The executive is to cause to have built in the yard a suitable number of cells. Each cell shall be 6 feet in width, 8 feet in length, and 9 feet in height. The cells shall be built of brick or stone and they shall be separated from the common yard, by walls of such a height that without unnecessary exclusion of air and light will prevent all external communication, for the purpose of confining those who are sentenced to solitary confinement.
>
> III The executive shall draw from the Treasury money to defray such expenses of building the penitentiary, not to exceed $30,000.

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[63] Shepherd, Statutes of Virginia, II, 5.

[64] Laws of the Commonwealth of Pennsylvania, 1700-1810. Printed by John Bioren (Philadelphia, 1810), II, III.

Punishment of Offenses

Every person committed to the penitentiary shall be confined in the solitary cells thereof, on a low coarse diet for such a part of his term of imprisonment as the court shall direct. Provided that it be not more than 1/2 or less than 1/12 part thereof.

Persons convicted for second offenses now punishable with death without benefit of clergy, shall be imprisoned for life at hard labor.

1. High treason--Confinement in the penitentiary for not less than 6 or more than 12 years. To be kept at hard labor or in solitude.
2. Murder in the 1st degree--[Extended to aiders, abetters and counsellors] Death by hanging.
3. Murder in the 2nd degree--Confinement in the penitentiary for not less than 6 or more than 12 years.
4. Arson--Imprisonment for not less than 5 or more than 12 years.
5. Rape--Imprisonment for not less than 10 or more than 21 years.
6. Petit treason--Punishable as murder in the 2nd degree.
7. Robbery or burglary--Restoration of the thing taken or payment to the owner the full value thereof. Imprisonment for not less than 3 or more than 10 years.
8. Horse stealing--Shall restore the horse, mare or gelding, or pay the owner the full value thereof. Imprisonment for not less than 2 or more than 7 years.
9. Simple larceny--[$4.00 and upwards] Restore the stolen goods or pay the value thereof. Imprisonment for not less than 1 year or more than 3 years.
10. Larceny of goods or chattels under the value of $4.00, or petit larceny. Shall restore the goods stolen or pay the full value thereof. Imprisonment for not less than 6 months or more than 1 year.
11. Forgery and Counterfeiting--Imprisonment for not less than 4 or more than 15 years. Shall pay such fine as the court shall direct, not exceeding $1,000.
12. Malicious maiming--Imprisonment for not less than 2 or more than 10 years. Shall pay a fine, not to exceed $1,000, 3/4 thereof shall go to the use of the party grieved.
13. Voluntary manslaughter--1st offence, imprisonment for not less than 2 or more than 10 years at hard labor and solitary confinement. Security for good behavior; 2nd offence, imprisonment at hard labor and solitary confinement for not less than 6 or more than 14 years.

14. Involuntary manslaughter--May be indicted for the offence of misdemeanor or felony.[65]

This act extended only to free persons and was to be declared in force as soon as the penitentiary was ready to receive prisoners.[66] By this action corporal punishment was to be replaced almost entirely by confinement, and capital punishment was to be administered only in cases of first degree murder. Although slaves were still subjected to the same harsh punishment of the old laws, the executive and the council were empowered, in 1801, to purchase all slaves under the sentence of death and to transport them out of the Commonwealth.[67]

St. George Tucker voiced the sentiments of many toward the new development when he wrote:

> It is most devoutely wished, that the success of this experiment in this state, may be equal to what it has been hitherto in Pennsylvania; and that future legislatures may be so well concerned of its practicability, as well as of it's beneficial effects, as to extend it to SLAVES as well as FREE PERSONS, to whom its operation is at present confined.[68]

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[65] Shepherd, Statutes of Virginia, II, 5-13.

[66] Ibid., II, 14.

[67] A Collection of Acts of the General Assembly of Virginia. Printed by Samuel Pleasants (Richmond, 1814), 573. This provision was put into practice, but it is not possible to say that it was applied in all cases. 56 slaves were transported from 1801 to 1806. See House Journal, 1806, Appendix iii.

[68] Tucker, Commentaries on Blackstone's Laws of England, V, 18.

Benjamin Watkins Leigh was authorized by the General Assembly to revise the laws in 1819. He was aided by William Waller Hening and William Munford. The Revised Code which resulted from their work amounted to a collection and re-classification of the general laws.[69]

During the period 1796 to 1820, few changes were made in the criminal laws. These changes brought about the re-adoption of the death sentence for the crimes of treason, duelling, and arson. The sentence of imprisonment for horse-stealing was increased from 5 to 10 years, and those found guilty of malicious maiming were to be imprisoned for a period of 1 to 7 years. Likewise, offenses deserving less than one year's confinement were to be tried in the county or corporation in which they were committed. In these cases, convicted persons were to be punished by stripes, not less than 10 or more than 40, for any one offense; or confinement in jail for not less than 6 or more than 12 months. The only other form of corporal punishment was that authorized for the punishment of persons found guilty of obtaining money or goods by false token. Such offenders were to be set upon the pillory for a length of time as adjudged by the court.[70]

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[69]Revised Code, 1819, I, 558-616.

[70]Ibid., II, 328.

CHAPTER IV

THE STATE PENITENTIARY, 1800-1820

The Act of 1796, which provided that imprisonment replace capital punishment as a penalty for felonious offenses, was not to be declared in force until an adequate prison could be erected at Richmond. It was thus that the erection of the "Penitentiary House" became a matter of life or death for those who were found guilty of felony.

The original plan for the penitentiary had been suggested in 1785 by Thomas Jefferson. The plan, designed by a French architect, and based upon the principle of solitary confinement, had been sent from France by Jefferson as a proposed step toward prison reform.[1] A modification of this plan was made by an American architect, Benjamin Latrobe. His plan was approved by the Council in June, 1797,[2] and the cornerstone

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[1]Andrew A. Lipscomb (ed.), The Writings of Thomas Jefferson (Washington, 1903), 272.

[2]Council Journal, 1797-1798, 26. MSS. in Virginia State Library.

of the new penitentiary was laid August 12, of the same year.[3]

The construction of the penitentiary proceeded slowly at first. It was not until March 26, 1800, that the governor issued a proclamation declaring the act "to amend the penal laws of the Commonwealth" in force.[4] Although the penitentiary was deemed sufficiently ready for the confinement of prisoners at this time,[5] it was not completed until 1805.[6]

The new penal system was to serve three major objectives: (1) Public security, through confinement of offenders and the vigilant attention of the keeper; (2) Reformation of the prisoners through habits of industry, separation of sexes, prohibition of spirituous liquors, and the prevention of improper communication with the outside; and (3) To foster a humanistic attitude toward those who were imprisoned through the provision of food, clothing, fuel, medical assistance, and the recommendation of pardon for those prisoners who showed sincere good behavior.[7]

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[3]W. Asbury Christian, Richmond: Her Past and Present (Richmond, 1812), 28.

[4]Executive Letter Book, 1794-1801, 309. MSS. in the Virginia State Library.

[5]Council Journal, 1799-1801, 132. MSS. in Virginia State Library.

[6]Journal of the Senate, 1805, 21.

[7]Roscoe, Observations on Penal Jurisprudence, Appendix I, 1.

Virginia adopted the Pennsylvania system of imprisonment which was based on the principles of hard labor and solitary confinement.[8] Under this system a portion of each offender's term was to be spent in solitary confinement, as the court should direct. It was decreed by the Legislature that the length of this confinement was not to be less than one-twelfth part or more than one-half of the term of imprisonment. All prisoners were to be kept at hard labor when they were not confined to the solitary cells.[9]

Government of the Penitentiary

Board of Directors.

By the Act of 1796, the Court of the City of Richmond was to appoint twelve inspectors for a term of one year. It was the duty of this body to make all rules and regulations concerning the penitentiary, and to have charge of all transactions necessary for the proper functioning of that institution. The inspectors were to convene once in every three months, at which meeting two members were to be appointed to inquire into the management of the prison and the conduct of

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[8]Executive Letter Book, 1794-1800, 361. MSS. in Virginia State Library.

[9]Shepherd, Statutes of Virginia, II, 358.

the keeper and his assistants. The Mayor of Richmond was empowered to determine the punishment for prisoners who violated the rules of the prison, and to carry out all duties not specifically assigned to the inspectors or the keeper.[10]

A board for the government of the penitentiary was established in 1804. This board was composed of the inspectors of the penitentiary, the governor and council, and the attorney general.[11] In 1807, this provision was repealed and the board was dissolved. The governor and council were to execute any or all of the powers which had been vested in the mayor of Richmond, the inspectors, the attorney general, and the Court of Richmond. The governor, with the consent of his council, had the power to make all rules and regulations concerning the sale of manufactured materials, the purchase of tools, food, clothing, materials for manufacturing, and for regulating the conduct and punishment of the prisoners.[12] These powers were redelegated, in 1816, to a new board of directors. This board was composed of "five intelligent and discreet persons" appointed by the governor, by and with the advice of the council.[13]

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[10] A Collection of Acts, 1803, 362.

[11] Shepherd, Statutes of Virginia, III, 99.

[12] A Collection of the Acts of the General Assembly of Virginia. Printed by Samuel Pleasants (Richmond, 1803), 141. Hereafter listed as A Collection of Acts, 1803.

[13] Revised Code, 1819, 624.

The Keeper.

The keeper of the penitentiary, a person of many responsibilities, was appointed by the governor and his council. Before the keeper could assume his duties he was required to give a $2,000 bond for the due discharge of his and his assistants' responsibilities.[14] He was also required to pay $60, if, upon any occasion, he failed to carry out an order of an inspector.[15] In addition, both he and his assistants, were to forfeit $30 for the escape of any prisoner.[16]

It was the duty of the keeper to carry out all the rules and regulations of the penitentiary which were made by the inspectors. His major duties were to prevent escapes; to provide for the welfare of the prisoners; to see that the inmates did not neglect their work or violate any of the prison rules; to keep records of personal data for each convict; and to prevent unauthorized communications from the outside.[17]

With the governor's approbation, the keeper was to appoint his own assistants or turnkeys. He, in 1801, was directed to appoint one assistant,[18] but as the number of prisoners

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[14] A Collection of Acts, 1803, 362.

[15] Revised Code, 1819, 627.

[16] A Collection of Acts, 1803, 362.

[17] Journal of the Senate, 1804, 22.

[18] Executive Letter Book, 1800-1803, 112. MSS. in Virginia State Library.

increased the number of turnkeys was gradually increased to five.[19]

Martin Mims, a citizen of Richmond, was appointed as the first keeper of the new penitentiary.[20] He resigned his position in 1807 after "several attempts to escape, both artful and desperate," had been made by the convicts.[21] He was replaced by Abraham Douglass, who had formerly been an official at the Pennsylvania State Penitentiary.[22]

The Agent, Storekeeper, Clerk, and Guards.

The agent of the penitentiary was appointed by the governor. The duty of this member of the prison staff was to make contracts for the sale of articles which had been made by the convicts. In the beginning, only one agent was appointed, but by 1820, four agents were regularly employed. These sales agents were placed at Richmond, Petersburg, Fredericksburg, and at Lynchburg, respectively.[23]

A storekeeper was appointed to take charge of the raw materials for the manufacturing, and to be responsible for the

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[19]Council Journal, 1803-1806, 144. MSS. in Virginia State Library.

[20]Executive Letter Book, 1794-1800, 322. MSS. in the Virginia State Library.

[21]Virginia State Papers, IX, 494.

[22]Ibid., IX, 511.

[23]Ibid., X, 19.

Treatment of Prisoners

One of the most important measures provided for under the Act of 1796 was the one pertaining to sanitary regulations for the penitentiary. These provisions stood in marked contrast to the conditions which were found in the early county jails. Every effort was made by the penitentiary officials to promote the health of the prisoners and to prevent the spread of any infection within the prison.

Each prisoner, upon admittance to the "Penitentiary House," was to be well washed, "cleaned," and separately lodged until it had been certified by a physician that he was "fit" to go among the other prisoners. The new prisoner's clothing was to be burned, or fumigated and kept until he was discharged.[28]

Internal measures of sanitation were also practiced. It was specified by law that the walls and cells of the penitentiary were to be white-washed at least twice in every year.[29] The inspectors further required that the cells be fumigated during the summer and fall, once a week or oftener, with tar and vinegar.[30] The floors of the cells were to be swept every morning, and scrubbed at least once each week by one or more of the prisoners in rotation. At the discretion of the keeper,

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[28] A Collection of Acts, 1803, 359.

[29] Ibid., 360.

[30] Journal of the Senate, 1804, 21.

prisoners who performed such duties received an extra allowance of food.[31]

Each prisoner was furnished a bed of oznaburgs, stuffed with straw, two blankets, and two sheets. It was required that this bedding be sunned once each week. Clean sheets were issued once every three weeks.[32]

Other provisions were made to promote the health of each inmate. A regular physician was employed to care for the prisoners. It was no longer necessary for the keeper, without a knowledge of medical science, to prescribe and give medicine as he saw fit.[33] The physician was required to visit the penitentiary once each day (Sundays excepted) from the first of July to the first of November, and once in every two days for the remainder of the year. It was the duty of the physician to render all surgical and medical attention to the prisoners, and to determine their ability to work.[34] Apartments on the second story of the penitentiary served as an infirmary. Convicts who were ill were to be removed to the infirmary upon the recommendation of the physician.[35]

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[31] Revised Code, 1819, 626.

[32] Journal of the Senate, 1804, 21.

[33] Virginia State Papers, IX, 100.

[34] A Collection of Acts, 1803, 141.

[35] Ibid., 362.

The prisoners were to be allowed to walk and air themselves, out of doors in the prison grounds, as often as their health required and the keeper permitted.[36] The keeper was to take care that the prisoners washed themselves every morning and before meals, and to see that they changed their clothing once a week. It was further required that all males have their heads and beards closely shaven once weekly. Hours of sleep began at nine o'clock each night, at which time all lights were extinguished and all lodging rooms and cells were securely locked.[37]

The Act of 1796 also specified that convicts be fed upon bread, Indian meal, or other inferior food, at the discretion of the inspectors, and that they be allowed two meals of coarse meat in each week.[38] The regular diet of the convicts was in compliance with this specification. The two daily meals consisted of a diet:

> For breakfast--One pint of mush, and a pint of molasses and water mixt, the quantity of molasses not more than 1/4 of a gill.
> For dinner--1/2 lb. of meat, of which soup is made, and a pint of soup, 1/2 lb. of bread and near a pint of potatoes.

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[36] Revised Code, 1819, 626.

[37] Journal of the Senate, 1804, 22.

[38] Shepherd, Statutes of Virginia, II, 8.

> The convict women get the same allowance as that of men with the exception of meat and potatoes; those they receive but two days in the week.[39]

Each prisoner was subsisted at the rate of six and one quarter cents per day.[40] In 1809, J. Bootwright and O. C. Gathright were granted a yearly contract to supply rations to the prisoners at this rate. Each daily ration was to consist of 1 1/4 pounds of meal, half a gill of molasses, one-half pint of Irish potatoes, and one-half a pound of coarse meat. For every one hundred pounds of rations, two quarts of salt and one pound of soap were to be supplied.[41]

One of the prisoners, with the aid of an assistant, cooked the meals.[42] Each prisoner was allowed an interval of a half hour for breakfast and an hour for dinner. Meals were served between the hours of eight and nine in the morning, and two and three in the afternoon.[43]

Little effort was made in the beginning to provide religious instruction for the inmates of the penitentiary. The ministers of the neighborhood would sometimes visit the prison and deliver sermons. These sermons were "listened to with

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[39] *Virginia State Papers*, IX, 509.

[40] *House Journal*, 1809, 67.

[41] *Virginia State Papers*, X, 51.

[42] *A Collection of Acts*, 1803, 359.

[43] *Journal of the Senate*, 1804, 22.

attention and concern."[44] It was not until 1810 that provisions were made for a prison chapel. A. Foster, a minister, wrote to Governor Tyler of the volunteer efforts of the ministers of Richmond. He asked for a convenient place to worship because:

> . . . it is very disagreeable and injurious to our health, and the health of the prisoners also, to stand in the open air on the cold ground in the Winter, and in the Summer the heat of the sun affects us very much also.[45]

In compliance with this request, arrangement was made to use one of the rooms in the prison for a "Chapel of Divine Worship." Benches, a pulpit, and a Bible were provided for the room.[46] It was during this period that articles such as "The Nature of Sin and the Punishment that Certainly Follows," and "The Convict's Address to his Unhappy Brethren" were written for and made available to the prisoners who were in solitary confinement.[47]

The clothing of the prisoners was made from raw materials by their own hands.[48] The materials were furnished at the expense of the Commonwealth. It was specified that each male inmate be allowed: one short coat; and one pair of overalls;

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[44] Virginia State Papers, IX, 335.

[45] Ibid., X, 78.

[46] Ibid., X, 81

[47] Thomas Bowen, A Companion for the Prisoner (London, 1798), xi.

[48] House Journal, 1809, 66.

made of coarse blue cloth; one waist-coat made of brown and green cloth, alternately forming the different parts; two pairs of shoes; two pairs of yarn stockings; and two shirts and two pairs of trousers made of oznaburgs, each year. The collars and waist bands of the men's shirts and trousers were to be made of blue linen. The female inmates were to receive yearly, two short gowns and two petticoats made of oznaburgs; two pairs of shoes; two pairs of yarn stockings; and two blue linen or cotten neck handkerchiefs.[49]

Numerous provisions were made to regulate the conduct of prisoners and attempts were made to combat the evils of the old county gaol system.

No persons except the jailer and his helpers, inspectors, justices, or ministers of the gospel, were admitted to the prison grounds unless they were granted written permission by two of the inspectors.[50]

No communication by letter was to go in or out of the prison without its having been previously examined and approved by the inspectors.[51] Any person found guilty of introducing fermented liquors into the prison, except that used by the keeper and his family or that required by prisoners in ill

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[49] Journal of the Senate, 1804, 22.

[50] A Collection of Acts, 1803, 362.

[51] Journal of the Senate, 1804, 22.

health, was to be fined $20.[52]

The keeper was empowered to punish all convicts who were found guilty of assaults, profane swearing, indecent behavior, gaming, idleness, or willful mismanagement of work. Those found guilty of such offenses were to be confined in a solitary cell, not exceeding two days.[53] If the offender was guilty of any offense that the keeper was not authorized to punish, or if the punishment was not severe enough, the board of directors was empowered to order punishment by solitary confinement, not exceeding six days, or by lashes, not exceeding thirty-nine.[54] In all cases when a prisoner was confined in a solitary cell for disorderly behavior, the windows of the cell were to be darkened, admitting no light, and he was not allowed a bed. During the time of this confinement, the offender was sustained upon bread and water.[55]

Prisoners escaping, or attempting to escape, were to be punished by additional confinement and hard labor, and corporal punishment, not extending to life or limb, as the court adjudged. Open rebellion with intent to kill or wound the keeper, or to escape, was deemed to be a felony punishable by

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[52] A Collection of Acts, 1803, 362.

[53] Shepherd, Statutes of Virginia, II, 13.

[54] Revised Code, 1819, 629.

[55] Journal of the Senate, 1804, 23.

death. Conspiring to commit rebellion was a high misdemeanor, punishable by further confinement in the penitentiary, for a minimum of two years and not to exceed five years.[56] In order to prevent escapes, the keeper was required to check all rooms and cells each night, making certain that all windows and doors were securely locked. Each prisoner was to be searched as he was secured for the night. Male prisoners were stripped of all their clothing except their shirt, at the door of their respective cells. All clothes were kept on the outside of the cells and returned to the owners the next morning.[57]

There were, however, relatively few escapes from the penitentiary, when compared with the number of persons who absconded from the earlier county gaols.[58]

Martin Kims, in reporting on the conduct of the prisoners, stated that:

> Although with the greater number, mild treatment succeeds best, yet with some, good effects appear to have resulted from punishment and humiliation. In many cases apparent resignation and conviction of the justice of their sentences, have produced a laudable spirit of industries and an adherence to the regulations of the Institution.[59]

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[56] Revised Code, 1819, 629.

[57] Journal of the Senate, 1804, 21.

[58] House Journal, 1819, 7.

[59] Virginia State Papers, IX, 334.

Prison Industry

The Penitentiary of Virginia was founded upon the principle of hard labor for those prisoners confined therein. The earliest law pertaining to the new penal system provided that:

> Prisoners shall be kept as far as may be consistent with age, sex, health and ability, to labor of the hardest and most servile kind, in which the work is least liable to be spoiled by ignorance, neglect, or obstinacy, and where materials are not easily embezzled or destroyed.[60]

The purposes of this system of labor were to make the institution self-sustaining; to serve as a form of punishment for offenders; to provide a profit to the Commonwealth; and to afford the means by which prisoners could acquire a trade which would enable them to gain reputable means of livelihood upon being discharged.[61]

The board of directors made contracts for the working tools and materials for the manufacturing which was carried on in the penitentiary. They were also empowered to direct the agents in their securing of sales for the manufactured products which were sold at public auction or by contract.[62] If any previous instruction was required in any trade, the board of

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[60] A Collection of Acts, 1803, 359.

[61] Virginia State Papers, IX, 335.

[62] Revised Code, 1819, 624.

directors was to employ a person capable of instructing the prisoners in this work.[63]

In the beginning, certain rewards were made in order to encourage industry among the prisoners. Separate accounts were opened for all convicts who were sentenced to hard labor for six months or more. These convicts were charged with the expenses of clothing, subsistance, and a proportional part of their raw materials. They were credited from time to time with the sum received from their labor, and if this exceeded their expenses, the excess was laid out in "decent rainment" for such convicts at their discharge, or otherwise applied to their use, as the inspectors saw fit.[64] These accounts were discontinued in 1804. It was then directed that each prisoner be allowed, upon discharge, a sum not exceeding $30.00, if he had been orderly and industrious.[65]

All prisoners, unless prevented by ill health, were employed every day in the year, except Sundays or the days which they were confined in the solitary cells. The hours of work each day were to be as many as the season would permit, not exceeding eight hours in the months of November, December, and

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[63]Ibid., 625. As early as July 12, 1800, George Anderson Stile was appointed to instruct the prisoners in nail-making. Virginia State Papers, IX, 120.

[64]Shepherd, Statutes of Virginia, II, 294.

[65]Ibid., III, 99.

January; nine hours in the months of February and October; and ten hours the remainder of the year.[66] This provision also applied to slaves who had been condemned to death and were being held in the penitentiary awaiting deportation from the Commonwealth.[67]

The trades which were carried on by the convicts in the early years of the penitentiary consisted of nail-making, brad-making, and the manufacturing of clothing and shoes. Additional trades were added from year to year, and by 1820 the convicts were employed in the following occupations: millstone-making, brush-making,[68] the manufacturing of axes, hatchets, hammers, mats, chains, horse collars, fire buckets, seines,[69] holsters, sword belts,[70] mattresses,[71] boots, shoes, wrought nails, cut nails, brads, harness,[72] rope, wagons, carts, drays, wheelbarrows, ploughs, wheat fans, yarn, and cotton cloth.[73]

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[66] A Collection of Acts, 1803, 359.

[67] Executive Letter Book, 1800-1803, 280. MSS. in the Virginia State Library.

[68] Report of the Committee Appointed to Examine the Public Jail and Penitentiary. Printed by Thomas Ritchie (Richmond, 1820), Appendix B. Hereafter listed as Penitentiary Report, 1820.

[69] Earle Lutz, A Richmond Album (Richmond, 1937), 10.

[70] Virginia State Papers, IX, 446.

[71] Penitentiary Report, 1820, Appendix B.

[72] House Journal, 1809, 66.

[73] House Journal, 1819, 11.

These products were made "out of good materials and in a workmanlike manner."[74]

Some male prisoners were also employed as coopers, wheelwrights, carpenters, tailors, weavers, and blacksmiths. The women prisoners were employed in weaving, sewing, moating cotton, and spinning yarn.[75]

At first, convict labor did not prove profitable to the institution. A report on the causes of this deficiency, in 1806, revealed:

> 1. A want of cooperation and attention on the part of the gentlemen appointed as inspectors.
> 2. The difficulty of enforcing obedience to the rules and regulations by calling in two inspectors and the Mayor of Richmond, before any adequate punishment can be inflicted.
> 3. The exemption of the convicts from labour on their own suggestion of indisposition; often it is believed on the most frivolous pretexts.
> 4. Not having a sufficient stock of materials of various kinds on which to employ the convicts in those branches of manufacturing to which they had been particularly accustomed before their admission into the penitentiary.[76]

These defects were remedied to a large extent by the appointment of the board of directors, a provision requiring the prison physician's approval before any prisoner was excused

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[74] Virginia State Papers, IX, 458.

[75] House Journal, 1809, 142.

[76] House Journal, 1806, Appendix iii.

from work, and an increase in the various branches of manufacturing.[77]

Prison industry was then placed on a sounder economic basis and continued as one of the principles of the penal system. There were, however, objections to this principle. John Page, in a report on the penitentiary, stated:

> With respect to the Penitentiary and the Penal Laws, I beg leave to remark, that as to the former, the original benevolent intention of the founders will in no degree be accomplished, till the attempt to derive profit from the labor of the prisoners shall be abandoned. . . .[78]

The Penitentiary in 1820

It would not be an overstatement to say that Virginia's penal experiment had been successful. A thorough investigation was made of every aspect of the penitentiary by a committee appointed by the Legislature in 1819. This committee was "pleased to note the cleanliness of the convicts, and the order and regularity of their labors."[79] The health of the convicts had been improved by piping water into the interior

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[77] House Journal, 1805, 5.

[78] Ibid., 17.

[79] Penitentiary Report, 1820, 5.

of the prison from an adjacent spring.[80]

The records of prison industry for the year showed a profit more than equal to all of the internal expenses of the penitentiary. The system of policing had been greatly improved under the excellent management of the sergeant and the board of directors. This committee also stated that:

> We cannot refrain from expressing our approbation of the conduct of the officers of the Penitentiary, as far as it came under our observation. The very ingenious and zealous keeper deserves particular commendation.[81]

It should appear obvious that the "Penitentiary House" was a definite step in the direction of an enlightened and benevolent reform. There were, however, three outstanding weaknesses in this penal system:

The agents were compelled to sell the manufactured articles made by the convicts for cash, or on short-time negotiable paper. These limited markets tended to prevent ready sale of articles, and often the merchandise had to be disposed of at a loss at public auction. The limitation of sales resulted in a reduction of income toward the financing of the institution, which the people insisted must be self-supporting. Many feared that the "bloody code" might be re-enacted if the penitentiary

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[80] Ibid., 7.

[81] House Journal, 1819, 5. The keeper at this time was Samuel Parsons. Available records did not reveal the date which he replaced Abraham Douglass.

did not maintain itself.[82]

Secondly, the prison was becoming too small for a growing population. In 1819, there were 208 prisoners in the penitentiary which was designed to accommodate about 200. This was due to an increase in the civilian population, and not to an increase in the ratio of persons convicted of crimes. Actually, there were fewer capital crimes perpetrated after the establishment of the penitentiary and the adoption of milder forms of punishment than in any other preceding period since the establishment of the Commonwealth.[83]

Thirdly, probably the greatest evil of the penitentiary system was the required period of solitary confinement for all prisoners. This was particularly true for those offenders who were kept in such confinement for one-half, one-third, or even one-fourth, of their entire term. Keeper Parsons observed that "when they are long in solitude, it is some time before they are in a condition to do much labor; the vigor of health is so emaciated. . . ."[84]

These defects or weaknesses were serious but not irremediable; and there were a few persons who were acutely aware of this fact. Parsons, for instance, in reporting to the Assembly in 1819, suggested that:

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[82] Penitentiary Report, 1820, 7.

[83] House Journal, 1819, 6.

[84] Ibid.

> . . . was the fostering hand of the Legislature extended, to improve upon every year's experience, the institution would become like a well regulated government, with good and equal laws, whose beneficial influence will be felt throughout the country, and be a monument of a lasting benevolence, so consonant with a Christian people.[85]

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[85] Penitentiary Report, 1820, 6.

CONCLUSION

Under the various laws which were in force in England during the 18th century, one hundred and sixty offenses were punishable by death.[1] Though these same English laws were in effect in the Virginia colony, many capital offenses committed in the colony did not receive this extreme penalty. Following the repeal of the English Code in 1792, there was a gradual evolution of the criminal code toward a milder, more humane one.

A few individuals early recognized the need for a more benevolent form of punishment; one which would exact adequate restitution from the offender, and yet not lose sight of the fact that all criminals were human beings who were intrinsically capable of being restored to society as reformed, self-respecting citizens.

The first systematic attempt to soften the criminal code was made by the revisors' committee which reported to the

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[1]Howison, A History of Virginia, 209.

Assembly in 1779. The committee proposed a new code based on the principle of "lex talionis," or the law of retaliation. Had not this proposed code been rejected by the Legislature, Virginia might have been further retarded in its adoption of a milder criminal code. By this rejection the way was left open for the institution of a new penal system. Such a system was adopted in 1796, based upon Pennsylvania's criminal code. Under this new code only murder in the first degree was punishable by death. During the next few years treason, killing a person in a duel, and arson, were added to this list.

In conjunction with the first step toward an enlightened reform, the welfare of prisoners became, for the first time, the conscious concern of those in authority. In the State Penitentiary, measures for sanitation and the health of the prisoners were initiated. The rehabilitation of prisoners through gaining respectable means of livelihood for future use, and religious instruction, received serious consideration from prison officials and legislators.

By 1833, the practice of solitary confinement had been virtually nullified by the penitentiary, erasing one of the few remaining defects in the system. Howison, in his History of Virginia, summed up the results of the experiment which was undertaken at the beginning of the century:

> The Penitentiary System of the State has worked well; its superintendence has been careful and its abuses have been few. The convicts have proper

medical attendance, and except in extreme cases, they are not subjected to solitary confinement.[2]

The conditions of the county jails, however, did not show such rapid changes toward reform, though there was some effort made to improve these conditions through the increase of allowance for the maintenance of prisoners, and to the keeper for the operation of the jails.[3] A law of 1819 provided that offenders be conveyed to the penitentiary as soon as possible after their conviction. This did much to relieve the overcrowded conditions in the county jails.[4]

By 1820, it was no longer necessary for ex-convicts to face society wearing brands of severed ears, burned hands, and lash-scarred bodies. These punishments were the results of an earlier system, one which was founded on the false major premise that respect for and obedience to the law are in direct proportion to the severity of the punishment meted out. This assumption was proved wrong through the adoption of a milder system of laws and the resulting decrease in the prevalence of crimes.

The abolition of many inhumane forms of punishments; the introduction of simple sanitation facilities; the addition of

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[2]Ibid., 457.

[3]A Collection of Acts of the General Assembly. Printed by Samuel Pleasants (Richmond, 1814), 519.

[4]Revised Code, 1819, 621.

a physician to the prison staff; the selection of more understanding and conscientious prison officials; the limitation of the use of solitary confinement; and a realization of the rightful place of punishment in the treatment of law-breakers, definitely indicated that the citizens of Virginia were rising above medieval practices and laying the foundation for a sane, modern system of prisons and criminal laws.

APPENDICES

APPENDIX A

November 18, 1802

Number of prisoners sentenced from the District Courts since the establishment of the Institution:

From the	Spring	term	of	1800	there	were	received	---- 6
"	Fall	"	"	1800	"	"	"	---- 15
"	Spring	"	"	1801	"	"	"	---- 19
"	Fall	"	"	1801	"	"	"	---- 14
"	Spring	"	"	1802	"	"	"	---- 23
"	Fall	"	"	1802	"	"	"	---- 21
							Making in whole	-------- 98

Report of Martin Mims, Keeper
Virginia Calendar of State Papers, IX, 334-35.

APPENDIX B

Statement of the Jail and Penitentiary House -- Being a summary of the payments for raw materials, tools, ec. maintenance of prisoners and clothing ditto, stationery for the institution, keeper, commissioner, and amount paid sundry prisoners on their discharge. Also, amount received for manfactored articles sold, ec. from the 5th. of December, 1803, to 1st of December, 1804.

Dr.	D	C
1803		
Dec'r 5. To amount of manufactored articles and raw material on hand this date, as per inventory.....	4258	37
1804		
Feb'y 6. To amount of Martin Mims the keepers' account for purchases of raw materials, tools &.c. maintenance and clothing of prisoners, stationery, his commission, &.c. from the 5th. of December, to this date....	3305	13
April 6. To amount of ditto, for ditto, from the 6th. of February, to this date....	1122	60
June 6. To amount of ditto, for ditto, from the 6th. of April to this date.....	1162	86

September 1. To amount of ditto, for ditto, from the 6th of June to this date.....	2648	76
December 1. To amount of ditto, for ditto, from the 1st. September to this date.....	5894	56
	18,392	28
1804 December 1. To balance.....	5338	28

1804	Cr. D	C
Feb'y 6. By amount sales of 742 pair shoes, from the 5th. of Dec. 1803, to this date, as per sales book.....	961	58
Feb'y 6. By amount sales of 7750 6d, 1853 1/2 lb. 8d. 10 d, 12 d, and 1226 1/2 lb. 20d, 30 d, &c. wrought nails from ditto to ditto.....	425	76
Feb'y 6. By amount of sales of 972 lb. 3 d, 4 d, 3359 1/2 lb. 6 d, 8d, 10 d, 12 d, and 20 d, cut nails from ditto to ditto.....	665	94
April 6. By amount sales of 456 pair of shoes, from the 6th. of February to this date.....	584	76

April 6. By amount sales of 16,200 6d,, 4541 lb. 8 d, 10 d, 12 d, and 1714 1/2 lb. 20 d, 30 d, &c. wrought nails ditto to ditto.....	859	92
April 6. By amount of sales of 1363 1/2 lb. of 3 d, 4 d, and 3340 lb. 8 d, 10 d, 12 d, and 20 d, cut nails; also, 6500 3 d, 7000 4 d, 9000 6d, 500 8 d, and 1173 1/2 lb. 10 d, 12 d and 20 d, cut brads from ditto to ditto.....	759	52
June 6. By amount sales of 295 pair of shoes, from 6th of April to this date....	391	49
June 6. By amount of sales of 50,000 6 d, 2344 1/4 lb. 3 d, 10 d, 12 d, and 2280 1/2 lb. 20 d, 30 d, &c. wrought nails, from ditto to ditto.....	772	72
June 6. By amount sales of 1552 lb. 3 d, 4 d, and 2808 1/2 lb. 6 d, 8 d, 10 d, 12 d, & 20 d cut nails: also 4500 3 d, 6500 4 d, 10,000 6 d, and 1215 lb. 10 d, 12 d, and 20 d, cut brads, from ditto to ditto.....	728	64
September 7. By amount sales of 423 pair shoes from the 6th of June to this date.....	563	97

September 7. By amount sales of 20,750 6 d, 4539 1/2 lb. 8 d, 10 d, 12 d, and 3456 1/4 lb. 20 d, 30 d, &c. wrought nails from ditto to ditto.....	1081	63
September 7. By amount sales of 155 1/2 lb. 3 d, 4 d, ans 2438 1/4 lb. 6 d, 8 d, 10 d, 12 d, and 20 d, cut nails; also, 9300 3 d, 5750 4 d, 16750 6 d, and 965 lb. 8 d, 10 d, 12 d, and 20 d, cut brads, from ditto to ditto.....	673	48
September 7. By amount of Blacksmith's work executed for the keeper, as also for other persons, from December last.....	100	62
Dec. 1. By amount sales of 1120 pair shoes, from 1st. Sept. to this date.....	1436	46
Dec. 1. By amount sales of 8350 6 d, 4700 1/2 lb. 8 d, 10 d, 12 d, and 3303 1/2 20 d, 30 d, &c. wrought nails from ditto to ditto.....	2003	21
Dec. 1. By amount sales of 3299 lb. 3 d, 4 d, 3097 lb. 6 d, 8 d, 10 d, 12 d, and 20 d, cut nails: also, 2500 3 d, 7000 4 d, 9700 6 d, 1067 8 d, and 1135 lb. 10 d, 12 d, and 20 d, cut brads from		

ditto to ditto.....	989	32
Balance.....	5338	28
Dollars.....	18,392	28
1804. Dec. 1. By amount manufactored articles and raw material on hand, as per inventory.....	3524	67

Senate Journal, 1804, p. 24.

APPENDIX C

A table showing the number of prisoners convicted from each district, the place of nativity, the number of years they were sentenced, and their crimes: viz. of those now remaining in the Penitentiary, November 27, 1806.

No. of Prisoners	CRIMES	Men		Women		Richmond	Northumberland	Prince Edward	Staunton	Charlottesville	King & Queen	Petersburg	Fredricksburg	Williamsburg	Suffolk	Haymarket	Winchester	Norfantown
		White	Black	White	Black													
14	Murder in 2nd. degree	10	2	2		2	1	1			1	2	1		1		1	
22	Grand Larceny	15	6		1	1			1	1	1	1	3	1	6		1	2
3	Forgery and counterfeiting	2	1			1			1									
8	Burglary	5	3			1				1					2			1
29	Horse Stealing	25	4			4		1	1			2	2		1	3	1	
3	Manslaughter	3								1					1			
3	Rape	3							1				1					1
1	Highway Robbery		1			1												
1	Insurrection		1												1			
21	Felony	19	1		1	2		1				5	1		4	1	5	
3	Stabbing	3												1				1
1	Maiming		1			1												
3	Misdemeanor	3				1											1	
	Totals	38	20	2	2	14	1	3	4	3	2	10	8	2	16	4	9	5

Crimes and place of nativity, cont'd.

CRIMES	Brunswick	Washington	Hardy	Franklin	Accomack	Sweetsprings	North Carolina	Virginia	England	Maryland	Ireland	Pennsylvania	New York	Georgia	France	Delaware
Murder in 2nd. degree	1			1		2	1	12		1						
Grand Larceny		3			1			15		1	3	2	1			
Forgery and counterfeiting				1				2				1				
Burglary			2		1			2	1	4	1					
Horse Stealing		8		3		3	2	21		3		2		1		
Manslaughter						1		3								
Rape								3								
Highway Robbery								1								
Insurrection								1								
Felony		1	1				1	11		2	1	3	2		1	
Stabbing		1						2			1					
Maiming								1								
Misdemeanor						1		2								1
Totals	1	13	3	5	2	7	4	76	1	11	6	8	3	1	1	1

Crimes and place of nativity, cont'd.

CRIMES	Prisoners	Years Sentenced	Prisoners	Years Sentenced	Prisoners	Years Sentenced	Prisoners	Years Sentenced	Prisoners	Years Sentenced	Prisoners	Years Sentenced	Prisoners	Years Sentenced	Prisoners	Years Sentenced	Prisoners	Years Sentenced
Murder in 2nd. degree	2	18	2	13	2	10	1	11	2	7	5	5						
Grand Larceny	1	7	1	6	6	3	2	2½	2	2	5	1½	5	1				
Forgery and counterfeiting	1	5	2	4														
Burglary	2	10	2	8	1	7	3	5										
Horse Stealing	1	13	1	8	1	7	2	6	2	5½	14	5	2	4½	4	4	2	3
Manslaughter	1	10	1	3	1	2												
Rape	1	13¾	2	10														
Highway Robbery	1	10																
Insurrection	1	10																
Felony	2	10	1	9	1	8	2	7	2	6	3	4	3	3	6	2	1	
Stabbing	1	4	2	2														
Maiming	1	2																
Misdemeanor	2	2	1	1														
Totals	17		15		19		10		8		27		10		10		3	

General account of the Jail and Penitentiary for the Year 1806.

1805 Dr.

Dec. 1. To amount of manufactured articles and raw materials, as per inventory of this date..... $4885.04

1806

Dec. 1. To amount of the Keeper's account, for the purchase of raw materials, tools, &c. maintenance of prisoners, stationery, &c. also, money paid prisoners on their discharge from the 1st Dec. 1805 to this date..... $20047.09

$24932.13

1806 Cr.

Dec. 1. By amount sales of manufactured articles from 1st Dec'r 1805 to this date..... $16329.18

By amount of manufactured articles and raw materials on hand, as per inventory of this date..... $ 5542.62

$21871.80

Balance against the institution..... $ 3060.33

$24932.13

Amount of articles manufactured in the Jail and Penitentiary House from 1st. December 1805, to December 1st., 1806.

Amount of shoes.....	$5567.57
" of Holsters, Belts, Cartridge-boxes, &c.....	$6619.11
" of Wrought Nails and Brads.....	$2903.92
" of Cut Nails and Brads.....	$ 864.14
" of Blacksmith's Work.....	$ 143.32
" of Wheelwright's Work.....	$ 86.41
" of Tinner's Work.....	$ 24.24
	$16308.71

An abstract of prisoners received into the Jail and Penitentiary House from the commencement of the institution to the 27th. day of November, 1806.

Received Spring Term		Date	Prisoners
Do.	do.	1800	6
Do.	do.	1801	19
Do.	do.	1802	23
Do.	do.	1803	33
Do.	do.	1804	30
Do.	do.	1805	24
Do.	do.	1806	28

Received Fall Term		Date	Prisoners
Do.	do.	1800	15
Do.	do.	1801	14
Do.	do.	1802	21
Do.	do.	1803	22
Do.	do.	1804	11
Do.	do.	1805	26
Do.	do.	1806	11

Total number of prisoners received by years:

1800	21
1801	33
1802	44
1803	55
1804	41
1805	50
1806	39
Total number....	283

Discharged in all	152	prisoners
Escaped in all	5	prisoners
Died	14	prisoners
Remaining in the Jail and Penitentiary House this day	112	prisoners
Total	283	

House Journal, 1806, Appendix B.

APPENDIX D

Penitentiary Report upon the Penal System ----- January 15, 1810

Persons received in the Penitentiary from the period 1800 to 1809:

Year	Spring Term	Fall Term	Yearly Total
1800	6	15	21
1801	19	14	33
1802	17	21	38
1803	33	22	55
1804	30	11	41
1805	24	26	50
1806	28	13	41
1807	31	23	54
1808	18	18	36
1809	--	--	41

Received since the commencement of the institution --- 410

Number of prisoners discharged at the expiration of their respective terms of imprisonment ---------- 33

Number pardoned by the Governor and Council ---------- 8

Number pardoned by the President of the U.S. --------- 1

Total ---------- 42

Species of occupations which were carried on at the Penitentiary as of January 15, 1810:

21	Shoe makers
4	Boot makers
3	Binders
3	Cutters
2	Harness Makers
31	Wrought nailers
10	Headers of nails
8	Cutters of nails and brads
6	Blacksmiths and strikers
2	Grinders
2	Coopers
2	Carpenters
5	Assistants to spinning machines
4	Spinners (All the women in the Penitentiary)
2	Tailors
5	Weavers
2	Attendants on weavers
1	Washer
1	Beating hemp
1	Dish washer
2	Cooks
6	At miscellaneous work
122	Total

Amounts of articles manufactured at the Penitentiary from December 1, 1808 to November 30, 1809: (In dollars)

Amount of wrought nails ----------	$10,669.23 1/2
Do. of cut brads ----------	17,318.15
Do. of blacksmithing, carpentering -	1,253.72 1/2
Do. of Tailoring, Tinning, &c. ------	468.54 1/2
Do. of holstering, cartridge boxes -	4,519.34 1/2
Do. of cordwaining ----------	11,459.89 1/2
Do. of weaving, spinning cotton ----	1,236.78
	$46,926.03 1/2
Gross profits -------	$9,121.64 1/2
Clear profit after deducting commissions of the superintendent and the turnkeys ----------	$5,292.37

Penitentiary Report Upon the Penal System
Made by George Williamson.
House Journal, 1810, pp. 64-67.

APPENDIX E

Report on the Penitentiary ------ February 18, 1812

Persons confined in the Penitentiary as of December, 1811, are employed as follows:

Spinning twine -------	2	Shoe makers ----------	21
Weavers ----------	5	Binders of shoes ----------	2
Dish washer ----------	1	Headers of cut nails ------	8
Cooks ----------	2	Grinders ----------	2
Harness makers -------	3	Wrought nails ----------	21
Taylor ----------	1	Reeling thread (Women) ----	1
Cutter of shoes ------	2	Moating cotton (") ----	4
Cutter of nails ------	4	Invalids (") ----	1
Carpenter ----------	1	Spinning (") ----	5
Filling quills --------	21	Strikers ----------	4
Spooling ----------	1	Blacksmiths ----------	4
Carding ----------	3	Cooper ----------	1
Roving ----------	2	Invalid ----------	1
Spinning ----------	1	At miscellaneous business -	4
Boot makers ----------	2	Grand total ----	110

House Journal, 1811, pp. 141-42.

APPENDIX F

The Penitentiary in Acct. with the Commonwealth

DEBIT

1818 Oct. 1st. To amount of stock on hand this day including machinery, fixtures, &c. ---------	$24,343.20 1/2	
Sept. 30th. To amount of raw materials furnished by Samuel P. Parsons, from Oct. 1st, 1818 to Sept. 30th, 1818, (inclusive) ----------	44,659.91	
To amount contingent expenses ----------	581.62	
To ditto Hospital ditto ----------	290.16	
To ditto rations ditto ----------	6,371.00	
To ditto manufactured articles returned by Matthew H. Rice, agent, for sales during March and April, 1819 ----------	8,691.09	
To amount manufactured articles returned by S. Jacobs, July 23rd, 1819 ----------	64.14	
To do. do. do. returned by Mathew H. Rice, during the quarter ending Sept. 30th. 1819 ----	276.81 1/2	
To balance in favour of the institution -----	11,680.57 1/2	
	$96,904.51 1/2	

Officers salaries ----------	$ 4,658.32
Transportation of convicts ----------	7,382.52
Paid discharged convicts ----------	338.00
Agent's commissions and discounts allowed wholesale purchases, about ----------	1,600.00
	$13,978.84

CREDIT

1819 Sept. 30th. By amount of manufactured articles delivered Matthew H. Rice, agent for sales, from Oct. 1st. 1818, to Sept. 30th, 1819 ----------	$33,945.27
By the Public Guard, same period ----------	3,643.78
By Quarter Master General's department ------	541.87 1/2
By Lexington Arsenal Guard ----------	900.00
By the Commonwealth ----------	2,456.24
By the Virginia Armory ----------	87.44
By amount of rations furnished transports ---	114.62 1/2
By support and safe keeping United States prisoners ----------	130.10
By amount of stock on hand including $25,443 worth of manufactured articles ----------	48,524.72 1/2
By amount of machinery, fixtures, &c. -------	6,560.46
	$96,904.51 1/2
By balance in favour of the institution on its internal operations ----------	$11,680.57 1/2

(Signed) Samuel P. Parsons, Superintendent

The Penitentiary in Acct. with the Commonwealth

DEBIT

1818 - December 31st. To amount of raw materials purchased by Samuel P. Parsons, from October 1st to December 31st, inclusive -------	$12,641.71 1/2
To amount of contingent expenses ----------	142.00
To amount of hospital expenses ----------	48.92
To amount of rations ----------	1,724.91
	$14,557.54 1/2

There has been prepared in this quarter about 100,000 barrel staves not brought into account, as well as a considerable quantity of articles not finished, with a considerable stock of raw materials purchased in the same period.

CREDIT

1818 Dec. 31st. Amount of articles manufactured in Ward No. 1, embracing shoe and boot makers, harness makers, and tinners, from October 1st to Dec. 31st. ----------	$6,731.13
Amount of articles manufactired in Ward No. 2, embracing carpenters, coopers, and rope makers ----------	1,775.65
Amount of articles manufactured in Ward No. 3, embracing wheelwrights, blacksmiths, nailers and nail makers ----------	2,237.36 1/4

Amount of articles manufactured in Ward No. 4, embracing weavers, taylors, and mattress makers ----------	$ 591.79 1/2
Amount of clothing, &c. furnished the public guard at Richmond ----------	1,188.00
Rations furnished transports ----------	24.00
	$12,547.92 1/4

Amount of manufactured articles delivered M. H. Rice from October 1st to December 31, 1818, ---------- $6,298.62 1/2

(Signed) Samual P. Parsons, Superintendent

Recapitulation of the gross amount and value of articles manufactured in the Penitentiary during the year ending on the 30th September, 1819, viz:

10,776	pairs boots and shoes ----------	$18,844.75
	Mending boots and shoes ----------	930.25
	All other articles of which leather was the component part ----------	5,913.25
4,206	lbs different kinds of rope ---------	495.00
	All other articles of which hemp was the component part ----------	5,304.00
4,221	flour barrels and other cooperage ---	2,184.15
173	wagons, carts, drays, wheelbarrows, ploughs, wheat fans, &c. ----------	5,691.53
	Work of various quantities done by carpenters, and repairs by black-smiths ----------	2,606.47
	Wrought nails manufactured ----------	138.10
12	pair burr mill stones (Making and repairing) ----------	4,415.00
1,172	coats, vests, pantaloons, &c. -------	4,328.00
50	mattresses (Making and repairing) ---	1,056.38
16,930	yards weaving (average) ----------	4,232.50
	Work done for the Commonwealth in several departments ----------	3,085.55
	Total amount -----	$59,425.83

The Penitentiary in Acct. with the Commonwealth

DEBIT

1819 March 31st. To the amount of raw materials purchased by Samuel P. Parsons, from 1st of January to the 31st of March, 1819, inclusive	$ 9,676.42	
To amount of contingent expenses	30.25	
To amount of hospital expenses	19.92	
To amount of rations	1,630.27	
	$11,356.86	
To the annexed statement must be added 198,637 barrel staves, dressed during the quarter, amounting to $1,390.45, leaving the supposed balance in favor of the Institution, on its operation for the last quarter		$3,287.07 1/4

CREDIT

1819 March 31st. Amount of articles manufactured in Ward No. 1, embracing the boot and shoe-makers, harness makers and tinners, from January 1st to March 31st, 1819	$6,548.80
Amount of articles manufactured in Ward No. 2, embracing carpenters, coopers and rope-makers	1,701.50 1/2
Amount of articles manufactured in Ward No. 3, embracing weavers, taylors, and mattress makers	1,049.24 1/2

Amount of articles manufactured in Ward No. 4, embracing the wheel-wrights, blacksmiths, nailors, and mill-stone makers ---------- $3,351.84 1/4

Amount of articles furnished the Richmond public guard during the quarter ---------- 529.34

Amount of rations furnished transports ------ 74.75

$13,253.48 1/4

Amount of articles delivered Mathew H. Rice, from the 1st of January to 31st of March, inclusive ---------- $9,021.93 1/2

(Signed) Samuel P. Parsons, Superintendent

The Penitentiary in Account with Commonwealth

DEBIT

1820 Oct'r. 1. To amount of stock on hand including $25,443 worth of manufactured articles	$48,524.72 1/2
To amount of machinery, fixtures, &c.	6,560.46
1820 Sept. 30. To amount of raw materials furnished by Samuel P. Parsons, from October 1st, 1819, to September 30th, 1820 (Inclusive)-	44,204.89 1/2
To amount contingent expenses, same period	284.19
To do. hospital do. do.	242.78
To do. rations do.	5,955.67
To amount manufactured articles returned by Mathew H. Rice, agent for sales, from the 1st of October, 1819, to 30th of September, 1820	3,215.86
To this sum, being the difference between the invoice price of goods and what they sold for at auction	210.21
To balance in favor of the institution upon its mechanical operations	14,223.73 1/2
	$123,428.52 1/2

Expenses not included in the above statement, viz:

Officers' salaries	6,650.00
Transportation of convicts	6,706.43
Agents' commissions	2,000.00
Paid discharged convicts	350.00
	$15,706.43

CREDIT

1820 Sept. 30. By amount of manufactured articles delivered Matthew H. Rice, agent for sales, from October 1st, 1819, to September 30th, 1820 (inclusive)	$42,659.10
By do do Francis Follet, same period	3,580.31 1/2
By do. do. Abraham F. Biggers, same period	2,442.46
By Richmond public guard, same period	3,521.68
By Lexington Arsenal do. do.	968.59
By manufactory of arms, same period	73.70
By support and safe-keeping U. States prisoners	127.95
By the commonwealth	359.05
By rations furnished transports the same period	254.34
By amount of stock on hand, including $37,836.75 worth of manufactured articles	63,266.19
By amount of machinery, fixtures, &c.	6,082.65
	$123,428.52 1/2
By balance in favor of the institution upon its mechanical operations	$14,229.73 1/2

(Signed) Samuel P. Parsons

Report of the Penitenitary.
House Journal, 1819, pp. 8-11.

APPENDIX G

A TABLE

Shewing the number of convicts received in the Virginia Penitentiary from its commencement, up to the 30th of September, 1820; likewise the number pardoned, discharged and deceased during the year; the ages of the convicts when received; the length of time sentenced and their crimes; what proportion of them were of trades carried on in this institution at the time they were received, and their occupations on the 30th of September, 1820.

No. of convicts received in the Penitentiary each year since its commencement.		No. of convicts received for second and third offences.	
Year			
1800	21		
1801	33		
1802	44		
1803	55		
1804	41		
1805	50		
1806	40		
1807	54	1807	3
1808	37	1808	1

No. of convicts received in the Penitentiary each year since its commencement.		No. of convicts received for second and third offences.	
1809	40	1809	4
1810	25	1810	1
1811	34	1811	1
1812	49	1812	5
1813	52	--	-
1814	34	1814	3
1815	44	1815	6
1816	68	1816	6
1817	71	1817	4
1818	49	1818	6
1819	68	1819	5
1820	92	1820	5
Total	1001	Total	50

		No. of counties received for record and wiring of deeds.

Inmates, 1800-1820

In What Country Born:

No.	Country
136	Virginia
10	Pennsylvania
6	North Carolina
5	Massachusetts
9	Maryland
3	Tennessee
2	District of Columbia
2	Connecticut
2	New York
2	Kentucky
1	Delaware
2	New Jersey
1	South Carolina
1	New Hampshire
11	Ireland
9	England
2	West Indies
1	Germany
1	Italy
206	

Length of time sentenced, and their crimes

No.	Crimes	Years	No.	Crimes	Years
5	Murder 2nd. degree	18	1	Passing counterfeit notes	10
1	" " "	17	1	" " "	5 1/2
2	" " "	16	1	" " "	1
1	" " "	15	1	Burglary	8
1	" " "	14	1	"	7
1	" " "	13	2	"	5 1/2
3	" " "	10	7	"	5
1	" " "	9	1	" and Larceny	5
1	" " "	8	1	Felony	7
1	" " "	7	1	"	5
7	" " "	5	3	"	3
1	Manslaughter	5	3	"	2
1	" "	2	2	"	1
1	Voluntary Manslaughter	8	3	Grand Larceny	10
1	" "	7	1	" "	8
1	" "	2	2	" "	5
1	Rape	21	1	" "	4
1	"	18	20	" "	3
1	"	15	9	" "	2
3	"	10	4	" "	1 1/2
2	Horsestealing (life)	--	2	" "	1 1/4
1	"	10	5	" "	1
1	"	8	1	Stabbing	5
4	"	7	3	"	3
1	"	6	1	"	1 1/2
32	"	5	1	"	1
5	Robbery	5	1	" and mahem	1
1	Stealing Negroes	5	2	Petit Larceny	3
1	" "	4	1	" "	2
2	" "	3	10	" "	1 1/2
2	" Bank Notes	6	5	" "	1
4	" " "	3	2	" " (months)..	9
1	" " "	1	1	" " (months)..	6
1	Forgery	8	2	Burning barn	3
1	"	5	1	Horsestealing	10
1	"	2	-	Grand Larceny	1
2	"	1	1	Grand Larceny	3
1	Bigamy	2	1	Petit Larceny	1
1	Buggery	1			

Total offences - 206

The Penitentiary in Acct. with M. H. Rice,

Agent for Sales

DEBIT

1819 - To cash paid the treasurer as per auditor's receipts ----------	$20,414.16
Ditto paid discharge of convicts by order of the executive and incidental expenses (Allowed)--	859.21
Commissions ----------	1,382.76
Discounts to wholesale purchases ----------	256.03
Balance due the treasurer on account of sales prior to the 4th of October ----------	4,999.00
Stock on hand 1st October, 1819 ----------	6,034.11
	$33,945.27
Of the above amount was sold at private sale --	23,492.24
Sale at action in April and May ----------	4,418.82
	$27,911.06

CREDIT

By manufactored articles received for sale from the 1st October, 1819, to the 30th September, 1819, as per monthly invoices ------	$33,945.27
	$33,945.27

The Penitentiary in Acct. with the Commonwealth

DEBIT

1819 June 30th. To amount of raw materials purchased by Samuel P. Parsons, from 1st of April to the 30th of June, 1819, inclusive ----	$13,388.19
To amount of contingent expenses ----------	80.36
To ditto hospital do. ----------	56.79
To ditto rations ----------	1,459.48 1/2
	14,984.82 1/2
To balance in favor of institution ----------	2,773.90
	$17,758.72

CREDIT

1819 June 30th. Amount of articles manufactured in Ward No. 1, embracing the boot and shoe makers, harness makers, and tinners, from April 1st to June 30th, 1819 ----------	$5,817.53
Amount ditto in Ward No. 2, embracing the carptnters, coopers, and rope makers ----------	2,681.65 1/2
Amount of ditto in Ward No. 3, embracing the weavers, taylors, and mattress makers ---------	783.91 1/2
Amount of ditto in Ward No. 4, embracing the wheelwrights, blacksmiths, and mill-stone makers ----------	2,799.96
Amount of articles furnished the Richmond public guard during the quarter ----------	1,056.91
Amount of articles furnished the Lexington arsenal public guard ----------	487.00
	$13,626.97

Amount of component parts of articles dressed and ready to be put together, and barrel staves, &c. ---------- 4,131.75

17,758.76

Amount of articles delivered Matthew H. Rice from April 1st. to June 30, 1819, inclusive --- $11,173.02

The Penitentiary in Acct. with the Commonwealth

DEBIT

1819 Sept. 30. To amount of raw materials purchased by Samuel P. Parsons, from July 1, to September 30, 1819, inclusive ----------	$9,008.50 1/2
To amount of contengent expenses ----------	315.01
To ditto, hospital ----------	124.03
To ditto, rations ----------	1,535.67 1/2
To balance in favor of the institution ------	4,248.25 1/2
	$15,231.47 1/2

CREDIT

1819 Sept. 30. Amount of articles manufactured in Ward No. 1, embracing the boot and shoe makers, harness makers and tinners, from July 1st to Sept. 30, 1819 ----------	$6,452.57
Amount ditto, in Ward No. 2, embracing the carpenters, coopers and rope makers ----------	2,639.46
Amount ditto, in Ward No. 3, embracing weavers, taylors and mattress makers ----------	766.50
Amount ditto, in Ward No. 4, embracing the wheelwrights, blacksmiths, nailors and stone makers ----------	3,550.04
Amount of articles furnished Richmond public guard, same period ----------	868.03
Ditto, ditto, Lexington Arsenal, ditto ------	413.00

Ditto, ditto, quarters-master general's Department ---------- 541.87 1/2

$15,231.47 1/2

Note: Amount of manufactured articles delivered Mathew H. Rice, from July 1st. to Sept. 30th, 1819---------- $7,451.69

Age of the Convicts when received

19	Convicts	from	50	years	to	70	years
90	"	"	30	"	"	49	"
78	"	"	20	"	"	29	"
19	"	"	16	"	"	19	"
206							

Number Pardoned, Discharged &c, &c.

Pardoned from Oct. 1st., 1819 to Sept. 30th., 1820	-	17
Discharged " " " " " " " "	-	34
Died " " " " " " " "	-	8
		59
U. S. prisoner discharged	-	1
Total	-	60

Recapitulation

Of the gross amount of articles manufactured in the Penitentiary during the year ending September 30th, 1820, Viz:

15,673	pair of boots and shoes ----------	$25,637.75
	Mending boots and shoes ----------	
	All other articles of which leather was the component part ----------	3,220.05
	Tin ware of various qualities -----	311.87
1,497	lbs. different kinds of rope ------	308.30
	All other articles of which hemp was the component part ----------	3,511.70
3,189	flour barrels and other cooperage -	1,469.30
342	waggons, carts, drays, wheel-barrows, wheat-fans, ploughs, &c. -	6,635.00
	Work of various qualities done by carpenters, and repairs by blacksmiths ----------	2,465.67
	Amount of making and heading nails-	623.53
24	pair burr mill stones ----------	6,460.00
1,398	coats, vests, pantaloons, &c. -----	4,737.50
78	mattresses (Making and repairing) -	1,398.54
15,719	yards weaving, average, work done for the Commonwealth in several depts. ----------	525.25
		$63,586.59
	Deduct 10% ---------	6,358.65
		$57,227.94

No. of convicts in the Penitentiary on the 30th. of Sept. 1820, and their several occupations.		No. of convicts that were of trades carried on in the institution at the time they were received.		No. of convicts that learnt their respective trades during their first confinement in the institution.	
1	Clerk	16	Shoemakers	3	Shoemakers
2	Shoe cutters	1	Turner		
46	Shoe makers and shoe binders	10	Carpenter		
6	Harness makers	2	Rough Coopers		
1	Turner	5	Weavers	2	Weavers
12	Wheelrights, Carpenters and turners	4	Taylors		
15	Coopers	3	Blacksmiths		
10	Weavers, spoolers, and quillers	2	Nailors	2	Nailors
10	Taylors and mattress makers	1	Filer		
16	Rope and thread spinners, hacklers, &c.	44	were of trades carried on in this institution when received.	7	learnt their trades in the institution during their first confinement.
10	Blacksmiths				
10	Strikers				
5	Nailors				
1	Filer				
3	Millstone makers				
3	Brushmakers				
6	Laborers				
9	Carding and spinning wool				
2	Hospital attendants				
2	Cooks				
1	Cooks' Attendant				
2	Washers				
8	Infirm				
12	Confined in cells by sentence of court				
2	Confined in cells for violation of rules.				
6	Women, carding and spining				

206	State Prisoners
2	U. S. Prisoners
208	Convicts, of which there are 43 colored males and 5 females.

Report of the Committee Appointed to Examine the Public Jail and Penitentiary. (Richmond, 1820).

APPENDIX H

Conditions of the Penitentiary in 1833

A table shewing the number of convicts, received in the Penitentiary of Virginia, from the time it was opened in 1800, with the pardons, escapes, and discharges each year, until the 30th of November, 1833, and the number remaining on that day.

Year	No. Received	No. Pardoned	No. Died	No. Escaped	No. Discharged	No. Prisoners on Jan. 1st	No. Received for 2nd, 3rd, & 4th offenses
1800	21	-	1	1	-	-	-
1801	23	-	1	-	10	19	-
1802	44	-	1	-	16	41	-
1803	55	3	2	-	31	68	-
1804	41	1	1	3	33	87	-
1805	50	-	1	-	21	90	-
1806	40	5	5	1	34	118	-
1807	54	18	3	-	22	113	3
1808	37	11	-	-	29	124	1
1809	40	8	1	-	31	121	4
1810	25	11	3	-	20	121	1
1811	33	10	5	-	18	112	1
1812	50	34	-	-	11	112	5
1813	52	17	5	-	33	117	-
1814	33	23	3	-	15	114	3
1815	45	9	6	-	14	106	6

Inmates, 1800-1833 cont'd.:

Year	No. Received	No. Pardoned	No. Died	No. Escaped	No. Discharged	No. Prisoners on Jan. 1st		No. Received for 2nd, 3rd, & 4th offenses
1816	74	9	3	-	26	122		6
1817	77	16	3	-	39	158		4
1818	60	9	7	-	47	171		6
1819	80	12	11	-	34	168		5
1820	93	20	9	-	44	191		5
1821	81	13	15	-	55	211		4
1822	103	20	12	-	60	209		5
1823	83	12	14	-	66	220		9
1824	62	15	16	6	45	211		4
1825	34	1	23	-	47	191		3
1826	52	6	18	-	33	154		2
1827	43	4	17	-	28	149		2
1828	50	6	17	-	21	155		1
1829	55	4	21	-	24	168		-
1830	57	4	15	-	25	165		-
1831	49	5	25	-	22	124		4
1832	43	13	51	-	20	143		1
1833	37	11	9	-	19	124		1
Total	1786	330	330	11	993	122	(Ave.)	86

Convicts for the year 1833 were employed in the following occupations, viz:

Boot and shoe making	14
Harness making	2
Tailoring	10
Blacksmiths	8
Strickers	8
Nailors	3
Mill stone makers	2
Firemen	1
Weavers	17
Quillers and spoolers	5
Wool corders	2
Wool spinners	2
Splicers	3
Fuller and washer	1
Wheelwrights	7
Carpenters	6
Coopers	7
Yard hand, pumps, &c.	2
Runners	2
Nurses	2
Cooks	3
Clerks	1
Invalids	5
Total number of men	113
Women (All colored) employed sewing	9
Total of all colors of both sexes	122
Number of slaves for transportation	7

Of the number of prisoners received into the Penitentiary from 1st October, 1832 to 30th Sept. 1833, there were for--

Murder	4
Voluntary Manslaughter	5
Unlawful stabbing	2
Stealing free negroes	1
Arson	2
Robbery	1
Stealing slaves	1
Horsestealing	6
Grand Larceny	10
Forgery	2
Passing counterfeit banknotes	3
Bigamy	1
Felony	6
Total	44

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